

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/0550
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<b>Responsible Officer:</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 7 DP 1251955, 121 Dove Lane WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Construction of two (2) dwelling houses and swimming pools each upon an unregistered lot
<b>Zoning:</b>	R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Morehuman Warriewood Pty Ltd
<b>Applicant:</b>	The Trustee For Morehuman Unit Trust

<b>Application Lodged:</b>	18/05/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	27/05/2022 to 10/06/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 2,301,984.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for the construction of two (2) dwelling houses at 121 Dove Lane, Warriewood. Consent is also sought for landscaping works, stormwater drainage works, fencing, earthworks and swimming pools. The dwellings are proposed upon unregistered lots 1 and 2 which were approved within Development Consent DA2020/1727 which approved the subdivision of 121 Dove Lane to create three lots (being 2 residential lots and 1 residue lot) forming the first stage of the development of this sector within Warriewood Valley

Specifically, the development comprises of the following:

House 1 (Proposed on Lot 1 as approved within DA2020/1727)  
Level 1 (Ground Level)

- Two-car garage and driveway
- Entry
- Living/Dining/Kitchen
- Laundry
- Bathroom
- Outdoor terrace and kitchen
- Swimming pool and deck
- Rear yard and landscaping
- Fencing

#### Level 2

- Bedrooms 1 (with en-suite, walk-in-robe and balcony), 2, 3 and 4
- Bathroom
- Family
- Study
- Rear balcony

#### House 2 (Proposed on Lot 2 as approved within DA2020/1727)

##### Level 1 (Lower Ground Level)

- Two-car garage
- Entry
- Bedroom 4 (with en-suite)
- Landscaping

##### Level 2 (Ground Level)

- Living/Dining/Kitchen/Butler's kitchen
- Laundry
- Bathroom
- Family (with balcony)
- Rear terrace
- Swimming pool and deck
- Rear yard and landscaping
- Fencing

##### Level 3 (Upper Level)

- Bedrooms 1 (with en-suite, walk-in-robe and balcony), 2 and 3 (with balcony)
- Bathroom
- Study

## **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 - 1.9A Suspension of covenants, agreements and instruments  
Pittwater Local Environmental Plan 2014 - 6.1 Warriewood Valley Release Area  
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
Pittwater Local Environmental Plan 2014 - 7.10 Essential services  
Pittwater 21 Development Control Plan - B3.6 Contaminated Land and Potentially Contaminated Land  
Pittwater 21 Development Control Plan - B5.15 Stormwater  
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan  
Pittwater 21 Development Control Plan - C6.1 Integrated Water Cycle Management  
Pittwater 21 Development Control Plan - C6.2 Natural Environment and Landscaping Principles  
Pittwater 21 Development Control Plan - C6.5 Utilities, Services and Infrastructure Provision  
Pittwater 21 Development Control Plan - C6.7 Landscape Area (Sector, Buffer Area or Development Site)  
Pittwater 21 Development Control Plan - D16.1 Character as viewed from a public place  
Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments  
Pittwater 21 Development Control Plan - D16.7 Side and rear building lines  
Pittwater 21 Development Control Plan - D16.12 Fences  
Pittwater 21 Development Control Plan - D16.13 Building colours and materials

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 7 DP 1251955 , 121 Dove Lane WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	The subject site (121 Dove Lane) consists of one (1) allotment located on the south-western end of Dove Lane cul-de-sac. This allotment of land is legally described as Lot 7 in DP 1251955. The site will be accessed by the Fern Creek Road extension currently being built as approved under DA2018/1044 and has been subject to some of the previously approved works under this consent.

The site (121 Dove Lane) is irregular in shape with a width total southern boundary length of 108m and a depth of 29.65m. The site has a surveyed area of 2386m<sup>2</sup>.

A recent three lot subdivision has been approved on the subject site (as approved within DA2020/1727). The subject proposal (DA2022/0550) seeks consent for a new dwellings on proposed Lot 1 and Lot 2 of this approved subdivision. Lot 3 (as approved within DA2020/1727) does not form part of this application and has been approved for community title housing development (as approved within DA2021/0053)

Lot 1 (as approved within DA2020/1727) has an approximate frontage of 18.7m and a site area of 612m. Lot 2 (as approved within DA2020/1727) has an approximate frontage of 8.8m and a site area of 667m.

The site is located within the R3 Medium Density Residential zone and is a vacant site.

The site has crossfall of approximately 6m from the south-west to the north-east (street frontage). The site contains a mixture of small and medium trees and vegetation along the south-western boundary.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by Fern Creek and Council owned land to the north. This land has been proposed as a new public park (Lynne Czinner Park). Land to the east and south east is identified for future residential development as part of Warriewood Urban Land Release Area. Lands to the south and southwest is large rural residential lots.

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant history:

- **DA2018/1044** - Development Application for the 'Subdivision to create Road Reserve and three development lots, extension of Fern Creek Road in an easterly and westerly extension and remediation of contaminated land' - approved by Northern Beaches Council on 15 May 2019.
- **PLM2020/0251** - Prelodgement meeting was held for subdivision of the land into 33 Residential lots (and integrated housing) on 3 November 2020.
- **DA2020/1727** - Subdivision of 121 Dove Lane to create three lots (being 2 residential lots and 1 residue lot) forming the first stage of the development of this sector within Warriewood Valley - approved by Northern Beaches Council on 20 August 2021.
- **DA2021/0053** - Subdivision of land and construction of dwelling houses semidetached dwellings and attached dwellings- approved by Northern Beaches Council on 20 August 2021.
- Subdivision works Certificate for DA2021/0053 - Issued by Civil Certification Pty Ltd - 25 March 2022

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any	Pittwater 21 Development Control Plan applies to this



Section 4.15 Matters for Consideration	Comments
development control plan	proposal.
Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to a geotechnical report and acid sulphate soil report.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 4.15 Matters for Consideration	Comments
	(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is 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 (prepared by Eco Logical Australia Pty Ltd, dated 1 July 2021) was submitted within the approved subdivision of the site (DA2020/1727) on which this proposal is reliant. This report specified that the new residential lots conform to the relevant specifications and requirements within Planning for Bush Fire Protection. This application was also supported by NSW Rural Fire Service (subject to conditions).

The subject application is supported by an addendum (dated 02 May 2022) to this previous Bush Fire Report (prepared by Eco Logical Australia Pty Ltd, dated 1 July 2021) specifying that all bushfire protection measures assessed within the original approved report remain unchanged for the proposed dwellings i.e. Asset Protection Zones (APZ), Bushfire Attack Level (BAL), access, water supply, gas and electricity.

The subject application was also referred to the NSW Rural Fire Service who raised no objections subject to recommended conditions.

The recommendations of the bushfire reports and NSW Rural Fire Service will be conditioned within any consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/05/2022 to 10/06/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p><b>General Comments</b></p> <p><b>New Information - Additional Review 5 August 2022</b></p> <p>The applicant has provided response from GeoEnviro Consultancy Pty Ltd dated 28 July 2022 in response to Environmental Health's concerns regarding acid sulphate soils.</p> <p>GeoEnviro Consultancy Pty Ltd have advised that based on the proposed application, the risk of acid sulphate soils impacting on the proposed development is low. They have recommended that the recommendations within the Acid Sulphate Soils assessment by GeoEnviro Consultancy Pty Ltd dated 13 June 2018 (reference: E17655A-r3) be followed during works and that a waste classification be conducted on materials from the pool.</p> <p><b>Recommendation</b></p> <p>Supported - subject to conditions</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p><b>New Information - Additional Review 5 August 2022</b></p> <p>The applicant has provided a Site Validation Report by Sydney Environmental Group Pty Ltd dated 11 February 2022 (reference: 1312-SVR-01-110222.v1f).</p> <p>As such, Environmental Health have no concerns regarding site contamination and no conditions required.</p> <p><b>Recommendation</b></p> <p>Supported - no conditions</p>
Environmental Health (unsewered lands)	<p><b>General Comments</b></p> <p>Application is for the construction of two dwelling houses.</p>



Internal Referral Body	Comments
	<p>The SEA advises the following with services including sewer.</p> <p><i>The proposed development will be serviced by electricity, reticulated water and sewer, gas and communications to be delivered under already approved development.</i></p> <p>The approved subdivision application DA2018/1044 has conditioned a Section 73 Compliance Certificate from Sydney Water to ensure that the subdivision has adequate wastewater services.</p> <p>As this application relies upon the subdivision DA to install the sewer infrastructure, Environmental Health recommends that a deferred commencement condition be imposed that evidence is submitted to Council that a Section 73 Compliance Certificate has been obtained.</p> <p><b>Recommendation</b></p> <p>Supported - Subject to conditions</p>
Landscape Officer	<p>The development application is for the construction of a two dwelling homes on two separate lots, including swimming pools, earthworks, drainage works and associated site and landscape works.</p> <p>Council's Landscape Referral staff have assessed the proposal against the following Pittwater 21 DCP Controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D16 Warriewood Valley Locality, and in particular D16.1 Character as viewed from a Public Place, D16.5 Landscaped Area for Newly Created Individual Allotments, and D16.12 Fences</li> </ul> <p>In the Plans much of the northern side boundary is shown as not fenced to achieve, according to the Statement of Environmental Effects, a "natural transition between the adjacent public open space and the development" property upon lot 1, and the Landscape Plans show this as a 'native bushland buffer' with a line of sandstone logs along the boundary. However the width of the zone and the architectural layout with living and dining rooms with access to this area suggest pedestrian accessibility and rather this is not likely to result in the successful establishment of the native bushland buffer as the width is inadequate to achieve this aim. Such intent may be achieved with a substantial increase in the native bushland buffer to at least a width of 3 metres within the property. Concern is raised that no fencing along the side boundary may result in the use of the public open space by the occupant of lot 1 and thus such land use may be viewed as privatisation of public land and this is not supported. A condition shall be imposed for side boundary fencing to eliminate any</p>

Internal Referral Body	Comments
	<p>potential public land encroachment, and Landscape Referral shall defer this matter to the Parks, Reserves and Foreshores Referral team.</p> <p>The Landscape Plans numbered L01 to L08 inclusive, in consideration of the above comments requirement for a fencing conditions, are otherwise supported as illustrated for both lot 1 and lot 2, subject to conditions of consent requiring detailed landscape plans at construction certificate stage.</p> <p>The Arboricultural Impact Assessment submitted for this development proposal includes the retention requirements to preserve four existing native trees (tree 42, 45, and 46) across lot and 1 and lot 2, and the recommended removal of two native trees (tree 43 and 44) impacted by the building works. It is noted that on the Landscape Plans tree 43 is identified as tree 9 and tree 44 is identified as tree 10. All existing trees upon adjoining land are not impacted by the development proposal, and Landscape Referral supports the recommendations.</p> <p><b><u>Planner Comments</u></b></p> <p>Following this referral, amended plans were received which included a 1.2m fence along the northern side boundary to address landscaping comments and to eliminate any potential public land encroachment. Conditions amended to reflect these changes with agreeance from landscape Officer</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against previous consents and the following applicable biodiversity-related provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• Pittwater LEP cl 7.6 - Biodiversity Protection</li> <li>• Pittwater DCP cl. B4.15 - Saltmarsh Endangered Ecological Community</li> </ul> <p>Previous consents have provided approval for removal of up to 0.14ha native vegetation across the broader subdivision site. The current application proposes removal of one additional native tree, which will be compensated for through substantial replanting in the two lots. It is noted that comparison of the previous arboricultural assessment (Naturally Trees, 10 December 2020) and the landscape plans submitted with the current application (Habitat8, 4 March 2022) appears to indicate that Tree 44 (<i>Glochidion ferdinandi</i>) is the tree currently proposed for removal. This should be confirmed prior to any determination.</p>
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021; and</li> <li>• Relevant LEP and DCP clauses.</li> </ul>

Internal Referral Body	Comments
	<p>The proposed development site is located outside of the coastal zone and is not included within any of the coastal management areas listed under the SEPP (Resilience &amp; Hazards).</p> <p>The site is located a reasonable distance away from the coastal environment and as such development is unlikely to interfere with coastal hazards and/or processes. It is considered that conditions relating to coastal matters are not applicable.</p>
NECC (Development Engineering)	<p><b>09/08/2022:</b> The development application is for the construction of two dwelling homes on two separate lots (currently unregistered allotments and approved under DA2020/1727) including swimming pools, earthworks, drainage works, associated site and landscape works.</p> <p><b>Access</b> New driveways are proposed. Driveway profiles to be designed in compliance with Council's standard vehicle crossing profiles.</p> <p><b>Stormwater</b> Both lots are on higher side of Dove Lane. Lot 1: Proposal is to directly discharge site stormwater to street gutter. Lot 2: OSD/WSUD is proposed and final discharge is to street gutter. No Rainwater tanks are provided refer BASIX recommendations.</p>
NECC (Riparian Lands and Creeks)	<p>The proposal has been assessed for potential risks to environmental characteristics of the nearby creek and riparian habitat.</p> <p>The proposal is supported. Please refer to the Water Management assessment for conditions that must be adhered to.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed DA generally complies with the flood controls in the LEP and DCP.</p> <p>The site is outside the 1% and PMF extent.</p>
NECC (Water Management)	<p>The proposal was assessed under the current creek and water management legislation framework, the relevant parts of the LEP, DCP and Warriewood Valley urban land release water management specification.</p> <p>The supplied reports, plans and documentation were considered. No Rainwater tanks are provided refer BASIX recommendations.</p> <p>NECC Water Management has no objection to the proposal, subject to conditions.</p>
Parks, reserves, beaches, foreshore	<p>The development application is for the construction of a two dwelling homes on two separate lots, including swimming pools, earthworks, drainage works and associated site and landscape works.</p> <p>Council's Landscape Referral staff have assessed the proposal against the following Pittwater 21 DCP Controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• D16 Warriewood Valley Locality, and in particular D16.1 Character</li> </ul>

Internal Referral Body	Comments
	<p>as viewed from a Public Place, and D16.12 Fences</p> <p>The development site adjoins Public Recreation land known as Lynne Czinner Park. No physical encroachments upon public reserve land is permitted and all development works must ensure that surface sediment runoff and/or erosion is controlled, managed and contained within the site boundaries and prevented from travelling across the boundary and into the public reserve, and conditions shall be imposed to satisfy this requirement.</p> <p>Concern is raised that the development proposal in close proximity to the public reserve along the common northern boundary does not transition to integrate appropriately with the open space of the public reserve, and rather as documented the proposal may result in visual and physical encroachment into public land.</p> <p>The proposed Plans and Statement of Environmental Effects indicate that much of the northern side boundary is not fenced to achieve a "natural transition between the adjacent public open space and the development" property upon lot 1. The Landscape Plans show the side boundary area as a 'native bushland buffer' with a line of sandstone logs along the boundary. However the width of the zone and the architectural layout with living and dining rooms with access to this area suggests potential pedestrian accessibility, and this is not likely to result in the successful establishment of the native bushland buffer as the width is inadequate to achieve this aim. Such intent may be achieved with a substantial increase in the native bushland buffer to at least a width of 3 metres within the property.</p> <p>Concern is raised that no fencing along the side boundary may result in the use of the public open space by the occupant of lot 1 and thus such land use may be viewed as privatisation of public land and this is not supported. A condition shall be imposed for side boundary fencing to eliminate any potential public land encroachment, and Parks, Reserves and Foreshores Referral shall impose a condition of consent to ensure the erection of suitable fencing to delineate private land and public land separation.</p> <p>Subject to conditions, Parks, Reserves and Foreshores Referral are able to support the application.</p> <p><b><u>Planner Comments</u></b></p> <p>Following this referral, amended plans were received which included a 1.2m fence along the northern side boundary to address Parks and Landscaping comments and to eliminate any potential public land encroachment.</p>
Road Reserve	All works are contained within the site boundaries therefore no impact on future/existing road infrastructure. Driveways to be conditioned by Development Engineering.
Strategic and Place Planning (Development Contributions)	<p><b>Original referral response - 9 June 2022</b></p> <p>DA2022/0550 seeks consent to construct a dwelling house and</p>

Internal Referral Body	Comments
	<p>swimming pool on each (yet to be registered) lot.</p> <p>Development Consent DA2020/1727 was granted by Council on 20 August 2021 for the subdivision of one lot into three at Lot 7 DP1251955, 121 Dove Lane Warriewood (the stamped-approved plans are TRIM2021/589333). Development consent DA2020/1727 imposed condition 7 requiring the payment of development contributions for the two residential allotments (known as Lot 1 having a site area of 612sqm and Lot 2 with site area of 667sqm) being created by this consent.</p> <p><b>SUBJECT SITE</b></p> <p>The development site involves two lots, currently unregistered allotments (approved by way of Development Consent DA2020/1727).</p> <p>The two lots are:</p> <ol style="list-style-type: none"> <li>1. Subject of an Executed Planning Agreement (known as VPA2018/0001). When these two lots are registered, a notation will be placed on the Title of each lot stating the Executed Planning Agreement applies to the land. The Executed Planning Agreement requires commitments to be completed before a Subdivision Certificate can be issued (in the case of the two lots the subject of this DA, it relates to the Subdivision Certificate associated with consent DA2020/1727 to register these two lots). Clause 5 of the Executed Planning Agreement specifically relates to Contributions and Acknowledgements of the Executed Planning Agreement and sets out the obligations of both parties. These obligations are currently underway however it is unclear when they will be delivered.</li> <li>2. The subject of development contributions payable to Council by way of the Development Consent DA2020/1727. The contributions for these two lots are not yet paid. Condition 7 of the Development Consent DA2020/1727 requires payment of a monetary contribution totaling \$143,096 prior to the issue of a subdivision certificate.</li> </ol> <p>The repository requiring the development contributions payable against DA2020/1727 is created. As at 9 June 2022, the contributions required remain unpaid.</p> <p><b>ASSESSMENT OF DA</b></p> <p>The Warriewood Valley Contributions Plan (the Section 7.11 Plan) applies to the land and enables Council to impose a condition on a development consent requiring the payment of development contributions to Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act. The Section 7.11 Plan specifies that for any residential development on land under the plan (including subdivision to create additional residential allotments) will be charged development contributions payable to Council.</p>

Internal Referral Body	Comments
	<p>The Section 7.11 Plan does not restrict imposition of a consent condition to be imposed to the current DA regardless another development consent granted on the development site imposes a condition requiring payment of development contributions to Council. Currently, the development contributions payable to Council imposed under consent DA2020/1727 remains unpaid.</p> <p>The current DA will result in the construction of a dwelling on each lot. It is likely the developer will proceed with a Construction Certificate for each dwelling before each lot (the subject site pertaining to this DA) is able to be registered with NSW Land Registry in accordance with consent DA2020/1727 and the Executed Planning Agreement.</p> <p>As such, development contributions will need to be imposed on this DA for the construction of the two dwellings (a dwelling on each approved, albeit unregistered, residential lot). The repository for this DA has been created, with contributions payable for the two additional dwellings.</p> <p><b>Updated referral response - 2 November 2022</b></p> <p>The Assessing Officer has advised that a deferred commencement condition will be imposed on this application. The deferred commencement condition will require the registration of Lots 1 and 2 (as approved under DA2020/1727).</p> <p>As stipulated in the notice of determination for DA2020/1727, the registration of these allotments can only occur if the required development contribution imposed under condition 7 of that consent has been paid in full and the obligations stated in the executed planning agreement applying to the land have been satisfied.</p> <p>The proposed deferred commencement condition is supported. If the deferred commencement condition is not applied for any reason, this application must be referred back to the Strategic and Place Planning Team for consideration and will require additional conditions regarding the payment of development contributions and satisfaction of obligations in the executed planning agreement.</p> <p><b>RECOMMENDATION</b></p> <p>A. It is the Assessing Officer's responsibility to:</p> <ul style="list-style-type: none"> <li>(i) Assess this DA and ensure the Asset Protection Zone, water</li> <li>(ii) Ensure that if any changes are made to the development</li> </ul> <p>B. If approval of the DA is being recommended by the Assessing Officer, the deferred commencement condition should be applied.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of



External Referral Body	Comments
	Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should</p> <p>any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1284007M Dated 22 March 2022). The BASIX Certificate is supported by NatHERS Certificates

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass

Energy	50	55
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A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has submitted a Site Validation Report for the subject site. This Site Validation Report concludes that the detected concentrations of contaminants in the assessed soils on site are unlikely to present an unacceptable direct contact human health exposure or aesthetic risk and the site is considered suitable (from a contamination perspective) for the proposed low-density residential subdivision. This report has been reviewed by Council's Environmental Health Officer who has raised no concerns with regards to site contamination.

## 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:	10.5m	House 1: 10.3m (Ridge RL 30.27)	N/A	Yes
		House 2: 10.1m (Ridge RL 31.18)		

#### 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
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

#### Detailed Assessment

##### **1.9A Suspension of covenants, agreements and instruments**

Clause 1.9A of Warringah Local Environmental Plan 2011 states that for the purpose of enabling development on land in any zone, covenants that restrict the carrying out of that development do not apply to the extent necessary to serve that purpose. However, this does not apply in the case of a covenant imposed by Council (as in this case). As such, the covenant applies for the purpose of assessment, but may be modified at Council's discretion. An assessment of the relevant easements/covenants is as follows:

The subject lot is burdened by a number of easements and restrictive covenants, specifically those required as part of the approved subdivision of the land under development consent DA2021/0053.

##### **Bush fire Asset Protection Zones (APZ)**

Within DA2021/0053 approved for the subject site, a General Term of Approval provided by the NSW Rural Fire service required the following:

*2. At the issue of a subdivision certificate, suitably worded instrument(s) created pursuant to section 88 of the Conveyancing Act 1919, must be placed on proposed lot 1 and 2 in DA01, which requires the provision of a 24m asset protection zones (APZ) located within the lots and projecting eastwards from the lots western site boundary, and prohibits the construction of buildings other than class 10b structures within the APZ. The name of authority empowered to release, vary or modify the instrument shall be Northern Beaches Council.*

#### Comment

The proposed dwelling are setback over 24m from the lots western site boundary and does not include the construction of buildings other than class 10b structures within this area. The proposal is supported by a Bushfire Report which confirms compliance with this requirement. The proposal has also been reviewed by NSW RFS who has raised no objection to the proposal (subject to conditions).

#### **Stormwater Management**

Within DA2021/0053 and DA2020/1727 approved for the subdivision of the subject site a number of

covenants and easements were required as part of the consent for stormwater management.

The application has been reviewed by Council's Development Engineer and Water Management Officer with consideration of Stormwater Management who have raised no objections subject to conditions. Conditions have been imposed to ensure suitable stormwater measures, facilitation and maintenance of stormwater infrastructure. Deferred commencement conditions are to be imposed to ensure the registration of the subdivision of the subject lot under DA2020/1727.

### **6.1 Warriewood Valley Release Area**

The subject land sits within Sector 901G within the Warriewood Valley Release Area. This sector is part of a wider sector being the combination of Sectors 901C, 901G and 9 Fern Creek Road. The control requires that Council is satisfied that any development of Sections 901C, 901G and 9 Fern Creek Road will result in a dwelling yield between 26 and 33 Dwellings.

The subject development application would result in two (2) dwelling houses.

Development Application DA2021/0053 which was approved by Northern Beaches Council on 20 August 2021, approved a Community Title Subdivision to create 31 Residential lots and to facilitate the construction of 5 dwelling houses, 6 semidetached dwellings and 20 attached dwellings as part of that application. DA2021/0053 is for the development of the remainder of Sector 901C, 901G and 9 Fern Creek Road. Therefore, the proposed development, combined with the approved development within DA2021/0053, provides for a total of thirty-three (33) dwellings in Sectors 901C, 901G and 9 Fern Creek Road in line with the maximum requirements of this control.

### **7.1 Acid sulfate soils**

The proposal has been reviewed by Council's Environmental Health (Acid Sulphate) Officer with regards to Acid Sulphate who has provided the following response:

*The applicant has provided response from GeoEnviro Consultancy Pty Ltd dated 28 July 2022 in response to Environmental Health's concerns regarding acid sulphate soils. GeoEnviro Consultancy Pty Ltd have advised that based on the proposed application, the risk of acid sulphate soils impacting on the proposed development is low. They have recommended that the recommendations within the Acid Sulphate Soils assessment by GeoEnviro Consultancy Pty Ltd dated 13 June 2018 (reference: E17655A-r3) be followed during works and that a waste classification be conducted on materials from the pool.*

As such, the proposal is considered acceptable subject to recommended conditions of consent.

### **7.2 Earthworks**

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(f) the likelihood of disturbing relics*

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*

Comment: The proposal has been reviewed by Council's Coastal Officer, Riparian Lands Officer, Water Management, Environmental Health, Development Engineer and Bushland & Biodiversity Officer who have raised no objection to the works and their impacts to the surrounding natural environment.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

*(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## 7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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 development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

## 7.10 Essential services

In order to ensure essential services are provided to the site, deferred commencement condition is recommended be imposed to ensure the registration of the subdivision of the subject lots under DA2020/1727 and that a Section 73 Compliance Certificate has been obtained from Sydney Water to ensure that the proposal has adequate wastewater services.



## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	1.5m articulation zone 3m dwelling 4m to garage (front loaded)	<u>House 1:</u> Dwelling: 3m Garage: 4.2m	N/A	Yes
		<u>House 2:</u> Articulation zone: 1.5m Dwelling: 3m Garage: 4m		
Rear building line	<u>Front loaded &gt;20m deep:</u> 4m ground floor 6m upper Floor	<u>House 1:</u> 12m	N/A	Yes
		<u>House 2:</u> 7.5m		
Side building line	<u>Detached dwellings lots &gt;9m wide</u> 0.9m ground level 1.5m for upper level	<u>House 1:</u> Ground level: Nil (pool deck) Upper level: 1m Balcony	100%	No
		<u>House 2:</u> Lower Ground level: 1.5m Ground level: 1.5m Upper level: 1.5m	N/A	Yes
Landscaped area	35% (min dimensions 4m) House 1: 214.2sqm House 2: 233.45sqm	<u>House 1:</u> 28.4% or 174.1sqm (min 4m dimensions)	18.8%	No
		49.3% or 302.2sqm (all landscaped area)	3.5%	
		<u>House 2:</u> 33.8% or 225.3sqm (min 4m dimensions)  50% or 338.9sqm (all landscaped area)		

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
C6.7 Landscape Area (Sector, Buffer Area or Development Site)	Yes	Yes
C6.11 Additional Specifications for development of Sector 901A to 901H	Yes	Yes
D16.1 Character as viewed from a public place	No	Yes
D16.4 Water Management for individual allotments	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	No	Yes
D16.13 Building colours and materials	Yes	Yes
D16.14 Pets and companion animals	Yes	Yes

#### Detailed Assessment

### **B3.6 Contaminated Land and Potentially Contaminated Land**

The applicant has submitted a Site Validation Report for the subject site. This Site Validation Report concludes that the detected concentrations of contaminants in the assessed soils on site are unlikely to present an unacceptable direct contact human health exposure or aesthetic risk and the site is considered suitable (from a contamination perspective) for the proposed low-density residential subdivision. This report has been reviewed by Council's Environmental Health Officer who has raised no concerns with regards to site contamination.

#### **B5.15 Stormwater**

The application has been reviewed by Council's Development Engineer and Water Management Officer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to meet the requirements of this control. A deferred commencement condition is required to ensure the stormwater drainage line and swale located on the southern and south-eastern boundaries of Lot 2 is to be completed and certified prior to the design engineer to ensure adequate stormwater management for the site.

#### **B8.6 Construction and Demolition - Traffic Management Plan**

A condition has been imposed requiring a Construction Traffic Management Plan to be prepared and submitted to the Certifying Authority prior to works commencing on site.

Subject to compliance with the conditions of consent, the proposal will be consistent with the outcomes and requirements of this control.

#### **C6.1 Integrated Water Cycle Management**

The application is supported by a Water Management Report and Stormwater Plans. These documents have been reviewed by Development Engineer, Water Management Officer and Riparian Lands and Creek Officer who have raised no objections to the proposal subject to recommended conditions.

#### **C6.2 Natural Environment and Landscaping Principles**

The proposal has been reviewed by Council's Landscape Officer who has raised no objection, subject to recommended conditions.

#### **C6.5 Utilities, Services and Infrastructure Provision**

In order to ensure essential services and utilities are provided to the site, deferred commencement condition is recommended be imposed to ensure the registration of the subdivision of the subject lots under DA2020/1727 and that a Section 73 Compliance Certificate has been obtained from Sydney Water to ensure that the proposal has adequate wastewater services.

#### **C6.7 Landscape Area (Sector, Buffer Area or Development Site)**

The proposed landscaped area provided for the development is considered acceptable (see discussion in Cl. D16.5).

#### **D16.1 Character as viewed from a public place**

##### Description of non-compliance

The control requires garage doors on lots between 9m and 12.5m wide not to be more than 3m or 40% of the width of the lot, whichever is less. Lot 1 (house 1) has a width of 12.5m.

House 1 involves a garage that is 6m and 48% of the lot width. As such, the proposed garage is wider than the minimum requirement.

#### Merit consideration

With regard to consideration for a variation, the proposed development is considered against the underlying outcomes of the control.

The proposed variation is considered to be acceptable as the compliant front building line and articulation of the front elevation ensures that the visual impact of the garage is sufficiently minimised. The design garage is similar to that of other approved dwellings in the vicinity.

The northern elevation of "House 1" will adjoin a new public park. It is considered that this elevation has been suitably designed with articulation, balconies and changes in material to provide visual interest to this elevation.

Having regard to the above assessment, it is concluded the proposed development is consistent with the relevant objectives of P21 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.

### **D16.5 Landscaped Area for Newly Created Individual Allotments**

#### Description of Non-Compliance

Clause D16.5 of the Pittwater 21 Development Control Plan (P21 DCP) requires at least 35% of the individual site area to be landscaped. In calculating this percentage, all landscaped areas with dimensions less than 4m x 4m are excluded from the calculation. The proposed landscaped area are as follows:

##### House 1:

28.4% or 174.1sqm of the site area when including those areas 4m x 4m, which fails to satisfy this requirement. However, it is noted that when considering all landscaped areas including those less than 4m x 4m, the proposal includes 49.3% or 302.2sqm in excess of the minimum. Council's water quality team have reviewed the proposal and advise that the amount of landscaping proposed satisfies the requirements of water management for Warriewood Valley (see referral earlier in this report). The areas provided are reasonable to allow landscape planting and recreation for the residents, despite being less than 4m in dimension.

##### House 2:

33.8% or 225.3sqm of the site area when including those areas 4m x 4m, which fails to satisfy this requirement. However, it is noted that when considering all landscaped areas including those less than 4m x 4m, the proposal includes 50% or 338.9sqm in excess of the minimum. Council's water quality team have reviewed the proposal and advise that the amount of landscaping proposed satisfies the requirements of water management for Warriewood Valley (see referral earlier in this report). The areas provided are reasonable to allow landscape planting and recreation for the residents, despite being less than 4m in dimension.

#### Merit Assessment

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

- *Conservation of significant natural features of the site and contribution to the effective management of biodiversity.*

Comment

The proposal has been reviewed by Council's Biodiversity and Landscape Officer who have raised no objection the proposed tree removal subject to replacement planting. The site contains adequate soft landscape area for the establishment of a variety of vegetation types and sizes. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping.

- *Warriewood Valley achieves a unified and high quality landscape character that contributes to the sense of place.*

Comment

The proposed development allows for a high quality landscape character to be established on the site. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping.

- *Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological diversity and ecological processes.*

Comment

The supporting landscape plan will ensure the site provides a high quality landscape setting, which will enhance the ecological amenity of the locality.

- *The area of site disturbance is minimised.*

Comment

The proposed excavation for the swimming pool and dwelling will not inhibit the establishment of grass, soft landscaping and the required canopy tree planting.

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

Comment

While the site is numerically non-compliant with the minimum requirements for landscape area, the site does maintain areas of deep soil which will ensure that stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. The application has been reviewed by Council's Development Engineers and Water Management Officer who have raised no objection subject to recommended conditions.

- *Landscaped areas should be predominately areas of deep soil.*

Comment

The landscaped areas throughout the site consist of deep soil areas, which are suitable for canopy tree planting.

- *New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*

Comment

The proposed development provides areas for deep soil planting and landscaping within the front side and rear setback. The submitted landscape plan proposes various landscape treatments to surround the dwellings which will soften the visual impacts of the built form and in turn, contribute to an attractive streetscape. The proposal has been reviewed by Council's Biodiversity and Landscape Officer who have raised no objection to the proposal.

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

Comment

The proposed development ensures that a reasonable level of privacy and amenity is provided within the development site and is also maintained to neighbouring properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

## **D16.7 Side and rear building lines**

### Description of non-compliance

The control required structures at the ground floor to be setback a minimum of 0.9m and the upper level to be setback 1.5m.

#### House 1

- A section of the proposed swimming pool deck will have a nil setback from the northern side boundary which does not comply with the 0.9m requirement.
- A minor section of the proposed upper floor balcony will have a 1m setback from the northern side boundary which does not comply with the 1.5m requirement.
- The remainder of the dwelling will comply

#### House 2

- Complies

### Merit consideration

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

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

Comment:

The proposed development will be consistent and comparable in terms of bulk, scale and siting



with similar recently approved developments in the locality, such that the desired future character of the locality will be achieved, notwithstanding the minor contravention of the numeric controls.

- *The area of site disturbance is minimised and soft surface is maximised.*

Comment:

Sufficient areas of landscaped open space are provided around the site to meet this outcome.

- *The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*

Comment:

The proposed deck and balcony is of minimal bulk and scale. The deck will not be readily visible and the proposed balcony is an open structure. The development is also considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties, as a result of the adequate side setbacks, the orientation of the private open space area as well as the visual buffer that will be provided between properties once the proposed landscaping is established.

- *To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.*

Comment:

The proposed deck will remain largely unseen as viewed from the public domain and will not result in an overbearing visual impact to adjoining or surrounding properties given its minor scale. Screen planting and approved fencing will assist in screening the proposal from the public domain. The proposed balcony will be an open structure which will provide a degree of articulation to the proposed dwelling.

- *To create usable curtilage areas around buildings for viable access, landscaping and open space.*

Comment:

The site will remain afforded with sufficient areas around the built form for access, landscaping and open space.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

No views or vistas will be hindered as a result of the proposal.

- *Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.*

Comment:

The proposed development provides areas for deep soil planting and landscaping within the front, side and rear setback. The submitted landscape plan proposes various landscape treatments to surround the dwellings which will soften the visual impacts of the built form and in turn, contribute to an attractive streetscape. The proposal has been reviewed by Council's Biodiversity and Landscape Officer who have raised no objection to the proposal.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the*

*development site and maintained to neighbouring properties.*

Comment:

The proposed development ensures that a reasonable level of privacy and amenity is provided within the development site and is also maintained to neighbouring properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP 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.

#### **D16.12 Fences**

Clause D16.12 requires that boundaries between public and private land should be delineated by vegetation such as low hedges, garden beds or the like and specifies that fencing is not permitted forwards of the building line.

As discussed within Council's Landscape Officer and Parks & Reserves Officer's referral responses within this report, concern was raised that the initial development proposal in close proximity to the public reserve along the common northern boundary may result physical encroachment into public land. As such, amended plans were received which included the addition of a 1.2m fence along the northern boundary to address Parks and Landscaping comments and to eliminate any potential public land encroachment from the development. It is considered the height and location of the proposed fence meets the outcomes of this control which seek to define the boundaries and edges between public and private land and retain casual surveillance of public areas.

Council's Landscape Officer has recommended a condition that no fencing be provided forward of the building line and replaced with landscaping or garden beds, consistent with the requirements of the DCP to provide soft landscape treatment to the front setback areas. An amended landscape plan is to be provided to ensure this is undertaken.

#### **D16.13 Building colours and materials**

The majority of external finishes incorporates mid and dark greys, along with dark and earthy tones throughout the development for the walls and roofs. Some lighter elements consisting of light grey are used in places throughout the development as feature walls to provide articulation and provide a mixture of treatments, breaking down the bulk and scale of the building. This is considered acceptable as the vast majority of the development provides a high quality finish and colours in accordance with the colour schedule for Warriewood Valley.

### **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.

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/0550 for Construction of two (2) dwelling houses and swimming pools each upon an unregistered lot on land at Lot 7 DP 1251955, 121 Dove Lane, WARRIEWOOD, subject to the conditions printed below:

### DEFERRED COMMENCEMENT CONDITIONS

#### 1. Registration of Lots

Lots 1 and 2 (as approved within the land subdivision of 121 Dove Lane, Warriewood under development consent DA2020/1727) are to be registered with Land Titles (NSW Lands and Property Information Office). Evidence that the lot has been registered with Land Titles is to be provided to Council.

Reason: To facilitate the orderly development of land and provision of required services.

#### 2. Certification of Stormwater Drainage Line

The 300mm diameter stormwater drainage line and swale located on the southern and south-eastern boundaries of Lot 2 is to be completed and certified by the design engineer in accordance with Craig and Rhodes plan no 251-20C-CC-0101 Issue C dated 18/01/2022 .

Reason: To ensure adequate provision is made for stormwater drainage from the site.

### 3. **Sydney Water Requirements**

Evidence of a section 73 Compliance Certificate obtained from Sydney Water under the provisions of the Sydney Water Act, 1994 must be submitted to the satisfaction of the Principal Certifying Authority.

Reason: Compliance with the Sydney Water Act ,1994.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 4. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA104 Rev.01 - Site Plan - Level 01	22/03/2022	PopovBass
DA105 Rev.01 - Site Plan - Level 02	22/03/2022	PopovBass
DA106 Rev.03 - Level 01 Plan	24/10/2022	PopovBass
DA107 Rev.01 - Level 02 Plan	22/03/2022	PopovBass
DA108 Rev.01 - Level 03 Plan	22/03/2022	PopovBass
DA109 Rev.01 - Roof Plan	22/03/2022	PopovBass
DA110 Rev.03 - Elevations 1/2	24/10/2022	PopovBass
DA111 Rev.01 - Elevations 2/2	22/03/2022	PopovBass
DA112 Rev.03 - Sections	24/10/2022	PopovBass
DA113 Rev.01 - External Finishes Schedule	22/03/2022	PopovBass

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
251-20C-DA01-0002 Rev.A - GENERAL NOTES	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0003 Rev.A - LEGEND	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0051 Rev.A - BULK EARTHWORKS PLAN	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0101 Rev.A - CIVIL	08/03/2022	Craig & Rhodes Pty Ltd

ENGINEERING PLAN		
251-20C-DA01-0701 Rev.A - PRE-DEVELOPMENT CATCHMENT PLAN	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0702 Rev.A - POST-DEVELOPMENT CATCHMENT PLAN	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0703 Rev.A - INTERNAL CATCHMENT PLAN	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0751 Rev.A - UNDERGROUND OSD/WSUD TANK SECTIONS AND TYPICAL DETAILS	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0901 Rev.A - SEDIMENT AND EROSION CONTROL PLAN	08/03/2022	Craig & Rhodes Pty Ltd
251-20C-DA01-0902 Rev.A - SEDIMENT AND EROSION CONTROL DETAILS	08/03/2022	Craig & Rhodes Pty Ltd

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (1284007M)	22/03/2022	Sustainable Thermal Solutions
NatHERS Certificate (0007142821)	22/03/2022	B Carr
NatHERS Certificate (0007142839)	22/03/2022	B Carr
Arboricultural Impact Appraisal and Method Statement	10/12/2020	Naturally Trees
Bushfire Protection Assessment	01/07/2021	Eco Logical Australia Pty Ltd.
Addendum to Bushfire Protection Assessment (22HNC_2406)	02/05/2022	Eco Logical Australia Pty Ltd.
Flora and Fauna Assessment	12/06/2022	Eco Logical Australia Pty Ltd.
Water Management Report Rev.A	16/02/2022	Craig & Rhodes Pty Ltd
Geotechnical Investigation Report (20109/2-AA)	06/09/2022	GEOTECHNIQUE
Site Validation Report (1312-SVR-01-110222.v1f)	11/02/2022	Sydney Environmental Group
Acid Sulfate Soil Assessment	13/06/2018	GeoEnviro Consultancy Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>

L-03 Issue E- Level 01 Landscape Concept Plan	26/10/2022	HABIT8
L-04 Issue E - Level 02 Landscape Concept Plan	26/10/2022	HABIT8
L-05 Issue E - Landscape Sections	26/10/2022	HABIT8
L-06 Issue E - Landscape Precedent Images	26/10/2022	HABIT8
L-07 Issue E - Indicative Planting Schedule	26/10/2022	HABIT8
L-08 Issue E - Typical Specification & Maintenance Notes	26/10/2022	HABIT8

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	22/04/2022	Ashleigh Coombes

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.

**5. 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
Ausgrid	Ausgrid Referral Response	23/06/2022
NSW Rural Fire Service	RFS Referral Response	26/07/2022

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

**6. 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 Pittwater Local Environment Plan 2014 (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.

**7. No clearing of vegetation outside property boundaries**

This consent does not authorise any tree removal or the clearing of any vegetation outside the property boundaries of the subject site.

Reason: To protect native vegetation and wildlife.

**8. 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.

#### 9. **No Works on Adjoining Land**

All approved works are to be located entirely within the subject site. No Approval is granted under this consent for any works within or on the property boundaries of adjoining privately owned land.

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

#### 10. **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.

#### 11. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

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

### FEES / CHARGES / CONTRIBUTIONS

#### 12. **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 Certifier prior to the issue of the Construction Certificate.

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

### 13. **Detailed Landscape Plans**

The Landscape Plans L01 to L08 inclusive shall be updated to provide detailed landscape information, including:

- i) construction documents with hardscape design layout and materials selection, and softscape design layout including plant schedules, plant spacing and container sizes,
- ii) all tree planting shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees, planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- vi) fencing is not permitted forward of the front building line facing the streetscape of the road reserve. Boundaries between the public road reserve and private land shall be delineated by vegetation, such as low hedges, garden beds or the like.

The Detailed Landscape Plans shall be issued to the Certifying Authority and to Council prior to the issue of a Construction Certificate. Certification shall be provided to the Certifying Authority that these amendments have been documented and approved by Council.

Reason: Landscape amenity.

### 14. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from **Lot 1** within this consent is disposed of in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPMENT POLICY. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering and are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Stormwater shall be conveyed from the **Lot 1** to street kerb and gutter. Applicant must install Rainwater tank of at least 5000l capacity (BASIX).

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

### 15. **Adherence to Natural Environment Consent Conditions**

All biodiversity-related conditions of consent under previous development applications are to be adhered to unless amended by these biodiversity-related conditions of consent.

Reason: To protect biodiversity values.

### 16. **Erosion and Sediment Control Plan**

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

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

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

Reason: Protection of the receiving environment.

**17. Detailed Design of Stormwater Treatment Measures - Major**

The Applicant is to provide a certification of drainage plans detailing the provision of stormwater treatment measures on **Lot 2** in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPMENT POLICY and generally in accordance with the concept drainage plans prepared by Craig & Rhodes, Drawing Ref 251-20C-DA01-0001 to 0003,0051,0101,0701,0702 and 0751, Issue A, Dated 08/03/2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

**18. 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.



19. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

20. **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.

21. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention on **Lot 2** in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPMENT POLICY and generally in accordance with the concept drainage plans prepared by Craig & Rhodes, Drawing Ref 251-20C-DA01-0001 to 0003,0051,0101,0701,0702 and 0751, Issue A, Dated 08/03/2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. OSD to be provided in accordance with Clause 9.0 of Council's Water Management for Development Policy.
- ii. Rainwater tank of at least 5000l capacity (BASIX).
- iii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

22. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

23. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

24. **Vehicle Crossings Application**

The Applicant is to submit separate applications for driveway levels on **Lot 1** and **Lot 2** 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.

25. **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.

26. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

27. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The Construction Traffic Management Plan shall include (but not be limited to) the following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

The Construction Traffic Management Plan shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**28. Tree Removal Within the Property**

This consent approves the removal of the following tree within the property impacted by the works:

- i) tree 43 and tree 44 - *Glochidion ferdinandi* (as shown in the Arboricultural Impact Assessment), and noted as tree 9 and tree 10 (as shown on the Landscape Plans),
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

**29. Works on Land Owned or Managed By Council**

No works are to be carried out on land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

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

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**31. 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 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) or vi) 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) 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.

32. **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.

33. **Implementation of biodiversity measures**

All biodiversity-related measures are to be implemented during construction in accordance with previous consent conditions and the approved ecological assessment submitted in support of the original subdivision proposal.

Compliance with these measures is to be certified in writing to the Principal Certifying Authority.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

34. **Wildlife Protection**

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

Reason: To protect native wildlife.

35. **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.

36. **Substitution of Stormwater Treatment Measures**

The substitution of an "equivalent" device for the stormwater treatment measure (on lot 2) approved under the Development Consent must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

37. **Dewatering Management**

Tailwater (surface water and rainwater): Please contact [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au) for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.



The tailwater to be discharged must be compliant with the Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

**38. No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

**39. Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

**40. Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

**41. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

42. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

43. **Survey Certificate**

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

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

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

44. **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.

45. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing **on each lot (Lot 1 & Lot 2)**, 3.5 metres wide at street kerb in accordance with Northern Beaches Council Drawing No A4-3330/ 1N 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.

46. **Site filling - Virgin Excavated Natural Material (VENM)**

Where site fill material is necessary, fill materials must:

1. Be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
3. The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal Certifying Authority for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

47. **Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment

Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility. 'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

48. **Acid Sulfate Soils**

All excavation, construction and associated works must be conducted in accordance with the recommendations within the Acid Sulphate Soils assessment by GeoEnviro Consultancy Pty Ltd dated 13 June 2018 (reference: E17655A-r3).

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: Protection of the environment & to ensure management of potential acid sulfate soils in accordance with ASSMAC 1998

49. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

50. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

51. **Contamination**

Whilst undertaking works, any site specific geologically uncharacteristic material observed that was not identified during the Preliminary Site Investigations must be actioned in accordance with Section 7 of the Remediation Action Plan (RAP) dated May 2018 prepared by GeoTech Consultancy Pty Ltd Ref: JE17655A-r2.

Reason: To ensure unidentified contamination is managed accordingly to protect public health.

**52. Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment

**53. Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/businessindustry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

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

**54. Landscape Completion**

Landscape works are to be implemented in accordance with the approved Detailed Landscape Plans.

Prior to the issue of any Occupation Certificate details (from a 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.

**55. Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree and vegetation protection.

**56. Stormwater Disposal**

The stormwater drainage works for **Lot 1** shall be certified as compliant with all relevant Australian Standards and Council's Water Management For Development Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

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

**57. 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.

**58. Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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 weeds.

**59. Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by by Craig & Rhodes, Drawing Ref 251-20C-DA01-0001 to 0003,0051,0101,0701,0702 and 0751, Issue A, Dated 08/03/2022. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

**60. Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created (lot 2) on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. 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 is to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

61. **Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective on lot 2.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
  - a) Work as executed drawings
  - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  - c) Site detail showing catchment for each device
  - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
  - e) Impervious area restrictions to maintain the water balance for the site
  - f) Funding arrangements for the maintenance of all stormwater treatment measures
  - g) Identification of maintenance and management responsibilities
  - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
  - a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

  - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
  - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing
  - a) Activity description, and duration and frequency of visits
  - b) Routine maintenance requirements
  - c) Work Health and Safety requirements
  - d) Waste management and disposal
  - e) Traffic control (if required)
  - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
  - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of Occupation Certificate.

Reason: Protection of the receiving environment.

62. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings (lot 2) for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.



The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

63. **Installation of Rainwater Tanks**

Rainwater tanks shall comply with Basix recommendations.

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To conserve potable water.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

65. **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.

66. **Requirements of the Voluntary Planning Agreement**

Prior to the issue of any Occupation Certificate, the obligations specified in the Executed Planning Agreement registered on this land are to be completed.

Reason: To ensure the relevant matters of the VPA have been completed

67. **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.

68. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application for **Lot 2** with Council. The application is to include the original 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 by a Registered Surveyor) and Hydraulic Engineers' final certification and photographic evidence for the completed onsite stormwater detention system works. A guide to the process can be found on Council's website using the following link:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdfforms/legaldocumentsa-on-site-stormwater-detentionsystems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdfforms/legaldocumentsa-on-site-stormwater-detention-systems/4023-legal-documentsauthorisationoct19.pdf>

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 on **Lot 2** 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 on **Lot 2** is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard and not altered.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**70. 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.

**71. 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 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

(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.

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

### 72. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

Reason: To maintain local environmental amenity.

### 73. **Maintenance of Stormwater Treatment Measures - Major**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

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.

74. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA 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.

76. **Retention of Natural Features**

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

Reason: To ensure the retention of natural features.

77. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife in accordance.

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

**Signed**



**Gareth David, Planner**

The application is determined on 08/11/2022, under the delegated authority of:



**Adam Susko, Manager Development Assessments**