

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2505
----------------------------	-------------

Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 6 DP 736961, 10 Fern Creek Road WARRIEWOOD NSW 2102
Proposed Development:	Construction of a dwelling house on proposed lot 9
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	Yes
Owner:	Pic 10 Warriewood Pty Ltd
Applicant:	Lachlan Maas

Application Lodged:	22/12/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	07/01/2022 to 25/01/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 531,300.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The application consists of the construction of a dwelling house, on approved lot 9 of the community title subdivision at No.10 Fern Creek Road, Warriewood.

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 - 7.2 Earthworks

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

SITE DESCRIPTION

Property Description:	Lot 6 DP 736961 , 10 Fern Creek Road WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site is legally described as Lot 6 in Deposited Plan 736961 with a surveyed area of 10,233m² and is located on the eastern side of Fern Creek Road. Specifically, the proposal is located on approved allotment No.9 in an approved community title subdivision on the subject land, which is yet to be legally created.</p> <p>Lot No.9 has an approved / surveyed area of 356.1m² and is accessed from Fern Creek Road on its eastern boundary.</p> <p>The site is located within the R3 Medium Density Residential zone and is currently vacant, with the exception of the constructed access roads and associated services infrastructure.</p> <p>The part of the site subject to the proposed dwelling site is relatively flat with no significant vegetation.</p> <p>Adjoining and surrounding development is characterised by vacant land to the north, south, west and east. To the west are detached dwelling houses.</p>

Map:



SITE HISTORY

The land has been used for commercial (agricultural) purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

N0540/15: Development consent (via a Section 34 agreement in the NSW Land and Environment Court) granted for "The creation of a twenty (20) lot community title subdivision and construction of associated infrastructure and access roads" on 20 June 2016. The subject application relates to approved Lot No.4 of this consent.

N0460/16: Construction of a residential flat building, comprising thirteen (13) dwellings, on a yet to be created lot (Lot 21) approved in the NSW Land and Environment Court on 13 April 2017

MOD2018/0073: S4.55 Modification of consent N0460/16 for the construction of a residential flat building comprising thirteen (13) dwellings on a yet to be created lot (Lot 21) approved 10 June 2018

MOD2018/0376: S4.55 Modification of consent N0540/15 granted for a twenty (20) lot community title subdivision and construction of associated infrastructure and access roads approved 23 October 2018

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on

Section 4.15 Matters for Consideration	Comments
	13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater</p>

Section 4.15 Matters for Consideration	Comments
the natural and built environment and social and economic impacts in the locality	21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 07/01/2022 to 25/01/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (unsewered lands)	The proposed development will be connected to existing underground sewer. No on-site sewage management system required under the Local Government Act 1993.
Landscape Officer	The development application is for the construction of a dwelling house and associated site and landscape works upon Lot 9. Council’s Landscape Referral staff have assessed the proposal against the following Pittwater 21 DCP Controls (but not limited to): <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • D16 Warriewood Valley Locality, and in particular D16.5 Landscaped Area for Newly Created Individual Allotments, and D16.12 Fences <p>The site is a vacant lot with no existing trees within the property boundaries. Existing street trees are present within the road verge of Fern Creek Road as well any other road verge street tree within the development, and all shall be protected and not impacted by construction activities including deliveries, and protection is subject to conditions of consent. There are no existing trees within adjoining lots either retained or to be retained, or impacted by the development works.</p> <p>The Architectural Plans include fencing and associated walling to the development front setback and this shall be removed. Under DCP control D16.12 Fences, the front setback between public and private land shall be delineated by vegetation, such as low hedges, garden beds or the like, and fencing is not permitted forward of the front building line to ensure an appropriate front setback landscape amenity to the streetscape.</p> <p>A Landscape Plan is submitted proposing landscape works to enhance the landscape setting of the lot development and no concerns are raised, subject to conditions of consent, including an Amended Landscape Plan to provide detailed plans at Construction Certificate stage to ensure compliance with the Pittwater 21 DCP landscape controls, and the following shall be documented or amended on the detailed plans:</p> <ul style="list-style-type: none"> • the plant schedule shall include a minimum of 70% endemic vegetation, with all canopy trees to be endemic, whilst smaller trees may be exotic, • exempt species are to be removed from the proposed plant schedule and these include Cupaniopsis, Fraxinus and Howea species listed in the development application document, • environmental weeds are not permitted to be planted and shall be removed from the proposed plant schedule and these include Cupaniopsis, Rhipiolepis and Pennisetum species listed in the development application document, • canopy tree endemic planting shall be Eucalyptus punctata as nominated where space permits, and the smaller trees shall be as nominated including Hymenosporum flavum and Tristaniopsis laurina, and may also include either Backhousia myrtifolia, Eleocarpus reticulatus, and Syzygium leuhmannii, • all tree planting is to be located a minimum of 3 metres from existing and proposed dwellings, • each tree is to be located at least 1.5 metres from adjoining common residential side boundaries, • hard landscape materials and landscape structures (excluding front setback fencing and walling) shall be in accordance with the development application document, • fencing is not permitted forward of the front building line. Boundaries between public and private land shall be delineated by vegetation, such as low hedges, garden beds or the like.

Internal Referral Body	Comments
	Subject to conditions as imposed, Landscape Referral raise no concerns.
NECC (Development Engineering)	<p>Updated comments 22/4/22 The previous issues have now been addressed the stormwater drainage plan details the provision of a rain garden. No objections subject to conditions.</p> <p>The proposal is not supported as the stormwater drainage plans do not detail the provision of a raingarden.</p> <p>Rain gardens are required for lots 2-8 and 17-20 as prescribed on Northrop Drawings 150483 4.01 and 4.02 Revision 5 and the associated Stormwater Management Report (as referenced in the subdivision approval consent).</p>
NECC (Water Management)	This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. No objection to the application, subject to conditions.
Strategic and Place Planning (Development Contributions)	<p>The DA is in the Warriewood Valley Release Area and is for the construction of a new dwelling on the yet to be created Lot 9. The subdivision of 10 Fern Creek Road was approved under N0540/15.</p> <p>Development contributions under the Warriewood Valley Contributions Plan were levied on the subdivision application and have been paid for the subject lot/dwelling house. As the DA is for the construction of a new dwelling on an allotment that has already been levied a contribution, there are no development contributions owing in respect to the current DA.</p> <p>The proposal is therefore supported.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable and no conditions required instance.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and

operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1262917S dated 1 December 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	55

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections.

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	8.7m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
1.9A Suspension of covenants, agreements and instruments	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
Part 6 Urban release areas	Yes
6.1 Warriewood Valley Release Area	Yes
Part 7 Additional local provisions	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

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.

(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.

(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.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

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

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(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.1.3(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.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Articulation zone to front boundary: 1.5m	5m (1 st floor balcony)	N/A	Yes

	Dwelling: 3m Garage / carport: 4m	5.3m (dwelling) 6.5m (garage)	N/A N/A	Yes Yes
Rear building line	4m (ground floor)	4m (dwelling) 1m (awning)	N/A 75%	Yes No
	6m (1 st floor)	6m	N/A	Yes
Side building line	0.9m (ground floor)	0.9m (west) 0.9m (west)	N/A N/A	Yes Yes
	1.5m (1 st floor)	1.5m (west) 1.5m (east)	N/A N/A	Yes Yes
Spatial Separation	N/A	N/A	N/A	N/A
Landscaped area	35% (124.6m ²)	29.2%* (104m ²)	16.5% (10.6m ²)	No

* Total landscaped area is 44.4% (158m²)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A Shaping Development in Pittwater	Yes	Yes
A1 Introduction	Yes	Yes
A1.7 Considerations before consent is granted	Yes	Yes
A4 Localities	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
Section B General Controls	Yes	Yes
B1 Heritage Controls	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3 Hazard Controls	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4 Controls Relating to the Natural Environment	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5 Water Management	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6 Access and Parking	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8 Site Works Management	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
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
Section C Development Type Controls	Yes	Yes
C1 Design Criteria for Residential Development	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.3 View Sharing	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C6 Design Criteria for Warriewood Valley Release Area	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
Section D Locality Specific Development Controls	Yes	Yes
D16 Warriewood Valley Locality	Yes	Yes
D16.1 Character as viewed from a public place	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

D16.5 Landscaped Area for Newly Created Individual Allotments

Description of Non-Compliance

29.2% (104m²) of the site is set aside as landscaped open space, which is a 16.5% (10.6m²) variation with the requirement been 35% (124.6m²).

Consideration of the Outcomes

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

Comment: There are no significant natural features on the site on the site, hence the variation will not compromise this objective.

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

Comment: Sufficient areas of landscaped open space are provided on the frontages of the allotment to

be consistent with this outcome.

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

Comment: The extent of the variation is minor and the area of landscape open space will work in unison with adjoining allotments to provide an adequate sustainable outcome.

The area of site disturbance is minimised.

Comment: The proposed development involves minimal disturbance to the existing topography and features of the site and this Outcome is achieved.

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

Comment: Sufficient stormwater management is provided on the site to achieve this Outcome.

Landscaped areas should be predominately areas of deep soil.

Comment: All areas of landscaped open space on the site are deep soil, consistent with this Outcome.

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

Comment: Sufficient areas of landscaping are provided around the site to sufficiently blend the proposed house with the existing streetscape of Fern Creek Road.

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

Comment: The proposal is compromised of adequately dimensioned landscaped setbacks to achieve this Outcome.

In summary, despite the non-compliance with the numerical requirement the proposed development can satisfy the Outcomes of the control.

D16.7 Side and rear building lines

Description of the Non-compliance

The proposed rear awning is setback 1m from the rear boundary and the requirement is 4m minimum which represents a 75%.

Consideration of the Outcomes

A consideration of the Outcomes is provided below:

To achieve the desired future character of the Locality.

Comment: The proposed variations are considered generally minor in scope and are not visible from the frontage of the site. Hence, this outcome is achieved.

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 extent of the variations are relatively minor and hence the impact of the proposed development are not considered to be of the extent by which the proposed setbacks could be considered unreasonable.

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: As stated previously, the proposed variations are relatively minor and will still provide reasonably dimensioned setbacks to the rear (north) boundary that will be sufficient to achieve this outcome.

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

Comment: Sufficiently dimensioned setbacks are provided to achieve this outcome.

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

Comment: No views from adjoining properties will be effected by the proposed setbacks and the variation will not compromise the ability for this outcome to be achieved.

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: No significant vegetation or natural features will be removed as a result of the proposed variations with the minimum rear setback.

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 variations with the rear setback are not likely to result in any significant loss of amenity to adjoining residents in regard to privacy, solar access or visual impact.

In summary, the proposed non-compliance with the rear setback control is supported as the outcomes of the control can be achieved.

D16.12 Fences

Council's Landscape Officer has recommended a condition that no fencing be provided forward of the building line, to comply with P21 DCP. An amended landscape plan is to be provided to ensure this is undertaken.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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

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

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

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

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2021/2505 for Construction of a dwelling house on proposed lot 9 on land at Lot 6 DP 736961, 10 Fern Creek Road, WARRIEWOOD, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Deferred Commencement

The issue of a Subdivision Certificate to demonstrate that the land subject to the approved dwelling (Lot No.9) has been legally created.

Evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

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 Section 95 of the Environmental Planning and Assessment Regulation 2000. 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

2. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 005 Revision B	23 November 2021	PTI Architecture
DA 010 Revision B	23 November 2021	PTI Architecture
DA 020 Revision B	23 November 2021	PTI Architecture
DA 120 Revision B	23 November 2021	PTI Architecture
DA 130 Revision B	23 November 2021	PTI Architecture
DA 140 Revision B	23 November 2021	PTI Architecture
DA 200 Revision B	23 November 2021	PTI Architecture
DA 210 Revision B	23 November 2021	PTI Architecture
DA 300 Revision B	23 November 2021	PTI Architecture
DA 700 Revision B	23 November 2021	PTI Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
C21187 - SW01	3 December 2021	CAM Consulting
C21187 - SW02	3 December 2021	CAM Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
BASIX Certificate No.1262917S	1 December 2021	Outsource Ideas
Arboricultural Impact Assessment Report	17 June 2021	PTI Architecture

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Operational Waste Management Plan	November 2021	Waste Audit and Consultancy Services
Waste Management Plan	Undated	CPS Planning

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.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be

maintained in a safe and clean state until such time as new construction works commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

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

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

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

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

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

6. Construction, Excavation and Associated Works (Security Bond)

A bond of \$5000 as security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

7. Amended Landscape Plan

An Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- the plant schedule shall include a minimum of 70% endemic vegetation, with all canopy trees to be endemic, whilst smaller trees may be exotic,
- exempt species are to be removed from the proposed plant schedule and these include *Cupaniopsis*, *Fraxinus* and *Howea* species listed in the development application document,
- environmental weeds are not permitted to be planted and shall be removed from the proposed plant schedule and these include *Cupaniopsis*, *Rhaphiolepis* and *Pennisetum* species listed in the development application document,
- canopy tree endemic planting shall be *Eucalyptus punctata* as nominated where space permits, and the smaller trees shall be as nominated including *Hymenosporum flavum* and *Tristaniopsis laurina*, and may also include either *Backhousia myrtifolia*, *Eleocarpus reticulatus*, and *Syzygium leuhmannii*,
- all tree planting is to be located a minimum of 3 metres from existing and proposed dwellings,
- each tree is to be located at least 1.5 metres from adjoining common residential side boundaries,
- hard landscape materials and landscape structures (excluding front setback fencing and walling) shall be in accordance with the development application document,
- fencing and associated walling is not permitted forward of the front building line. Boundaries between public and private land shall be delineated by vegetation, such as low hedges, garden beds or the like. Certification shall be provided to the Certifying Authority by a qualified Landscape Architect that these amendments have been documented.

Reason: Landscape amenity.

8. 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.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY for DEVELOPMENT, and in accordance with the concept drainage plans prepared by VNK Consulting, drawing number 090921-01 "A" sheets 1-2, dated 9/9/21. 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.

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.

10. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

11. **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.

12. **External Finishes to Roof**

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

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

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

13. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works and the street trees at the development site frontage shall be retained during all construction stages and thereafter. Existing tree guards shall be maintained in place.

Should any street tree along the site frontage not contain a tree guard or the existing tree guard is damaged during works, tree protection fencing consisting of a four sided 1.8m high x 2.4m length standard wire mesh construction fence, in accordance with Australian Standard AS 4687-2007: Temporary Fencing & Hoardings, shall be installed around the tree for the duration of the works.

Any street tree damaged or removed shall be replaced at a minimum container size of 200 litres, and in accordance with guidelines provided by Council.

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

15. **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.

16. **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.

17. **Survey Certificate**

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

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

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

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

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

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

18. **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.

19. **Vehicle Crossings**

The Applicant is to construct 1 vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal 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.

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

20. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plan.

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

Reason: Environmental amenity.

21. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with the approved construction certificate plans and relevant Australian Standards and Codes by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

22. **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.

23. **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.

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

24. **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.

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

Reason: To maintain local environmental amenity.

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

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

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

Reason: Protection of the receiving environment.

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

Signed





Phil Lane, Principal Planner

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

A handwritten signature in blue ink, appearing to read "L. Haidari".

Lashta Haidari, Acting Development Assessment Manager