

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1338
<b>Responsible Officer:</b>	Nick England
<b>Land to be developed (Address):</b>	Lot 11 DP 10548, 14 Gladstone Street NEWPORT NSW 2106
<b>Proposed Development:</b>	Demolition of existing dwelling and construction of detached dual occupancy dwelling
<b>Zoning:</b>	R2 Low 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>	P & V Fiedler Pty Ltd
<b>Applicant:</b>	Newport Homes
<b>Application Lodged:</b>	26/11/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New second occupancy
<b>Notified:</b>	18/12/2019 to 23/01/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	4.1B Minimum lot sizes for dual occupancies: 1%
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 1,355,000.00

### PROPOSED DEVELOPMENT IN DETAIL

The application seeks the demolition of the existing dwelling house on the land and the erection of the two (2) detached dual occupancy dwellings. Strata subdivision of the land was originally sought, however the applicant has since confirmed that this is no longer sought.

### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - C1.8 Dual Occupancy Specific Controls

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 11 DP 10548 , 14 Gladstone Street NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the corner of Gladstone Street (the primary frontage) and Bishop Street (the secondary frontage).</p> <p>The site is regular in shape with a surveyed area of 797.1m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone of Pittwater Local Environmental Plan 2014 and accommodates a single story dwelling house and swimming pool.</p> <p>The site has a slight slope tending in a northerly direction towards the rear boundary.</p> <p>The site has no significant vegetation or other landscape features.</p> <p>Adjoining and surrounding development is characterised by dwelling houses to the west and south. To the north and north-east of the site is an area of public open space (Newport Oval). To the east, on Gladstone Street, are two (2) residential flat buildings.</p>

Map:



## SITE HISTORY

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

PLM2018/0197: A prelodgement meeting was held on 20/09/2018, to discuss a proposed detached dual occupancy and strata subdivision. The applicant was advised to re-design the proposal in the following manner: ensure a 6.5m setback to Gladstone Street and ensure the dwelling has a frontage to this street; ensure a closer setback for the dwelling fronting Bishop Street; and ensure the FSR provisions of the DCP have been met.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning	None applicable.

Section 4.15 Matters for Consideration'	Comments
agreement	
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&amp;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&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to stormwater management, flood plain risk management and the PLEP 2014 requirements in regard to the minimum allotment size for dual occupancy development in R2 Low Density Residential zones. In response, the applicant provided new designs for stormwater and flood risk management. The applicant also amended the proposal to no longer seek the Strata title subdivision of the proposed dual occupancy dwellings.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;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&amp;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 the natural and built environment and social and economic impacts in the locality	<p>(i) <b>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>(ii) <b>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
	<b>(iii) 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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.  Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.
Landscape Officer	The plans indicate removal of one street tree on the Gladstone Street frontage to accommodate the new driveway crossover. The tree is not considered significant and no objections to removal are raised.  No buffer planting is proposed along the northern and eastern boundaries of the development. In view of the interface with the public reserve to the north and the private land to the east, buffer screen



Internal Referral Body	Comments
	<p>planting is recommended to be required for amenity of both the residents and the public.</p> <p>Little opportunity for street tree planting is available due to major powerlines surrounding the site. In lieu of street tree planting to assist in integrating the additional built form into the streetscape, additional trees are recommended to be incorporated in the garden beds along the boundaries fronting Gladstone St and Bishop Street .</p> <p>In consideration of the above, no objections to approval are raised subject to conditions as recommended.</p>
NECC (Development Engineering)	<p>The proposed inter-allotment drainage system for the two lots proposes a disposal drainage system by a level spreader system in Lot A is not supported for two dwellings. The inter-allotment drainage must be free flowing to Council's drainage system. All roof stormwater drainage from the two dwellings are to be collected and connected via the rain water tank and discharged to Council's piped drainage system in Bishop Street.</p> <p>Council's Stormwater and Floodplain officer have not supported the application. This may result in amendments to proposed floor levels alteration to the design of the dwelling which may have an impact on access to the proposed lots.</p> <p>As result of in adequate information the proposed development cannot be supported.</p> <p>DATED 28/04/2020</p> <p>The submitted stormwater management for the development is satisfactory. The application is for a strata subdivision. Appropriate condition are required to be recommended by the planner/compliance team.</p> <p>No Development Engineering objection is raised to the proposed development subject to conditions.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed development is for the demolition of an existing dwelling and construction of two separate residences on the lot. The proposed development has been designed to effectively manage the risk of flooding to the buildings and future occupants. Subject to conditions the application is recommended for approval.</p>
Traffic Engineer	<p>As per the trigger list, the proposal does not require the traffic referral response.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

#### SEPP 55 - Remediation of Land

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

#### 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

#### 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
Minimum lot sizes for dual occupancies	800sqm	Lot size: 797.1m <sup>2</sup>	0.4	No
Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones	700m <sup>2</sup>	N/A	N/A	N/A
Height of Buildings:	8.5m	Dwelling A: 8m Dwelling B: 7.6m	N/A N/A	Yes Yes

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.1B Minimum lot sizes for dual occupancies	No
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes

#### Detailed Assessment

#### 4.6 Exceptions to development standards

##### Description of non-compliance:

Development standard:	Minimum lot sizes for dual occupancies
Requirement:	800m <sup>2</sup>
Proposed:	797.1m <sup>2</sup>
Percentage variation to requirement:	0.7%

##### Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.1B - Minimum lot sizes for dual occupancies development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.



Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

Clause 4.1B - Minimum lot sizes for dual occupancies development standard is not expressly excluded from the operation of this clause.

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

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

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

*(a) the consent authority is satisfied that:*

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

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

The applicants written request argues, in part:

Given the very minor nature of the variation (0.4%), the tests adopted by the NSW Land & Environment Court in the matters of *Wehbe v Pittwater Council* (2007) 156 LGERA 446 [42] and *Banjanin v Mosman Council* [2016] NSWLEC 1332 are of relevance to the proposed development. In a detailed consideration of these tests, the written report elaborates that:

- the proposed residential density, which is in effect 1.5m<sup>2</sup> deficient for each allotment, is so minor that it results in essentially the same planned residential density under the standard;
- the development does not detract from the environmental capacity of the land to support the proposed development;

- a high level of residential amenity for future residents is provided through the dwellings and associated private open space / landscaped area being of sufficient size to comply with the minimum requirements; and
- the development is not an over-development of the site as it can demonstrate sufficient compliance with the other development standards of the Pittwater LEP 2014.

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

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

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

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

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

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

#### Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Minimum lot sizes for dual occupancies development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

#### **Objectives of development standard**

The underlying objective of the standard, pursuant to Clause 4.1b - 'Minimum lot sizes for dual occupancies' of the PLEP 2014 are:

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

*(a) to achieve planned residential density,*

Comment: The extent of the variation is very minor (0.4%) and in effect the proposed development represents no difference to a development that would be compliant with the control. In this regard, the development is consistent with this objective.

*(b) to maintain a high level of residential amenity, including adequate provision of private open space.*

Comment: The proposed dual occupancy dwellings have provided sufficient open space to comply with the minimum policy requirements for private open space for such dwellings. Therefore, the development is consistent with this objective.

## Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low density residential environment.*

Comment: The proposed development will result in one (1) additional dwelling in the community, satisfying this objective.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: Not applicable to the proposed development.

- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment: The proposed development is situated on sufficiently sized land and its design has demonstrated compliance with the minimum requirements for landscaped open space. The development therefore satisfies this objective.

## Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Minimum allotment size for dual occupancies Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (Gladstone Street)	6.3 - 8.1m	3	No
	3.25m (Bishop Street)	3.25 - 7.1m	N/A	Yes
Rear building line**	6.5m (north)	2.5m	62	No
Side building line***	1m (east)	1 - 4m	N/A	Yes

Building envelope	3.5m (east)	Breach of 11m x 47m on east elevation of Dwelling B	N/A	No
Landscaped area	50%	51%	N/A	Yes
Floor Space Ratio for Dual Occupancies	0.4:1	0.35:1	N/A	Yes

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

**\*\*Note:** As the site is a corner allotment, the rear setback cannot be strictly applied.

**\*\*\*Note:** The side setback on 1m is applied to the east setback, as the site is a corner allotment.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.10 Newport Locality	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.8 Dual Occupancy Specific Controls	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Centre)		
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.12 Landscaped Area - General	Yes	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

### Detailed Assessment

#### **C1.8 Dual Occupancy Specific Controls**

##### Description of Non-Compliance

The proposed detached dual occupancy consists of both dwellings being two-storey in construction. This is not compliant with the a control of Part C1.8 which states:

*Where dual occupancies (detached) are proposed, the maximum number of storeys of each dwelling shall be:*

*2 storeys for one dwelling, and  
1 storey for the second dwelling.*

##### Consideration of Outcomes

The non-compliance is considered against the Outcomes of the control, as follows:

*Limitation of the visual bulk and scale of development. (En, S)*

Comment: The context of the site is important in ensuring that the visual bulk and scale of the development is adequate. The site is a corner allotment, with each dwelling oriented towards its respective frontage. The southerly dwelling has a frontage to Gladstone Street and the north dwelling has a frontage to Bishop Street. In this regard, a two-storey dwelling to each of these frontages is typical of the bulk and scale in the surrounding locality, particularly to other development to the west. To the east of the site is a residential flat building, where the private open space is oriented to the north and not towards the subject site. In this regard, there will be limited visual impact caused by the proposed development when viewed from these properties. The site adjoins a sports oval with the nearest residences at least 60m away to the north. Hence, there will be limited visual impact when viewed from these properties. Based on these circumstances, despite both dwellings being two-storeys, they are considered to achieve this Outcome.

*Provision of design flexibility for second storey development.*

Comment: Under the circumstances, the need to provide a combination of 1 and 2 storey dwellings is not considered necessary.

*Restriction of the footprint of development on site. (En)*

Comment: The proposed dwellings have demonstrated compliance with the setbacks and landscaped



open space controls of the DCP and in regard to footprints, presents a reasonable level of occupation of the site area with sufficient landscaped areas and private open space to limit the visual presence of the proposed detached dual occupancy. The development is hence consistent with this Outcome.

*Retention of the natural vegetation and facilitation of planting of additional landscaping. (En)*

Comment: There are no significant areas of natural vegetation currently on the site. Nonetheless, the proposal is consistent with the minimum area of landscaped open space on the site required for new development and hence this Outcome is achieved.

*Provision of rental accommodation (S)*

Comment: The proposed dwellings will provide one (1) additional dwelling on the land, for the purposes of rental accommodation.

### Conclusion

Based on the consideration of the Outcomes, the development has proven to be consistent with the Outcomes of the control. Specifically, the two dwellings are modest in footprint, bulk and scale and in the context of the site being a corner allotment and not being in close proximity to other residential dwellings, the need to ensure that one of the dwellings is one-storey is not considered necessary. Hence, it is recommended that the proposal be approved, despite the non-compliance.

## **D10.7 Front building line (excluding Newport Commercial Centre)**

### Description of Non-Compliance

The dwelling with its frontage to Gladstone Street has a front setback varying between 6.3 to 8.1m from the front boundary. This represents a 3% variation with the 6.5m minimum front setback.

### Consideration of Outcomes

*Achieve the desired future character of the Locality. (S)*

Comment: The desired future character of the Newport Locality specifically states in relation to the proposed development: "Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development." The site is located on the valley floor and has no native vegetation, habitat or tree canopy. In this regard, the proposed development is consistent with the desired future character.

*Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment: Based on the location of the site, there is not likely to be any significant views enjoyed by surrounding properties. The extent of the non-compliance is very minor and even if views were present, there is unlikely to be any significant loss. The development is hence consistent with this Outcome.

*The amenity of residential development adjoining a main road is maintained. (S)*

Comment: The subject site is not located on a main road, hence this Outcome is not applicable to the proposed development.

*Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment: No significant vegetation exists on the land, hence this Outcome is not strictly applicable to the proposed development.

*Vehicle manoeuvring in a forward direction is facilitated. (S)*

Comment: Sufficient setback is provided from the garage to comply with the minimum requirement and adequate vehicular access is provided to the site.

*To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment: The extent of the non-compliance is very minor (200mm) and relates to a small eave over the entrance stairs to the dwelling. The remainder of the dwelling is setback as much as 8.1m from the setback and provides sufficient separation to enhance the existing streetscape. The development is therefore consistent with this Outcome.

*To encourage attractive street frontages and improve pedestrian amenity.*

Comment: As stated previously, the proposed non-compliance is minor and sufficient variation in front setback is provided on the south elevation to ensure an attractive street frontage. No adverse impact on pedestrian amenity is likely. The development is therefore consistent with this Outcome.

*To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment: Sufficient spatial separation is provided from the front boundary to provide a built form that consistent with the character of Gladstone Street.

## Conclusion

The development has demonstrated consistency with the Outcomes of the Front Building Line control. In this regard, the proposed non-compliance does not warrant refusal of the application.

## **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

### Description of Non-Compliance

The proposed rear setback for the dwelling that fronts Bishop Street, on the north boundary of the site, is 2.5m. This is a 62% variation with the 6.5m minimum rear setback.

It should be noted that as the site is a corner allotment, applying the rear boundary setback to the north boundary, is a technicality. The proposed dwelling has a frontage to Bishop Street, with the north boundary in this context becoming in reality the side setback for this dwelling.

### Consideration of Outcomes

A consideration of the proposed non-compliance with the Outcomes of the control is provided below:

*To achieve the desired future character of the Locality. (S)*

Comment: The desired future character of the Newport Locality specifically states in relation to the proposed development: "Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to

development." The site is located on the valley floor and has no native vegetation, habitat or tree canopy. In this regard, the proposed development is consistent with the desired future character.

*The bulk and scale of the built form is minimised. (En, S)*

Comment: The proposed dwelling fronting Bishop Street presents a modest scale in bulk and scale and the setback from the north boundary in effect is a side setback. A 2.5m setback is proposed, which is sufficient to set the dwelling away from the adjoining area of public open space.

*Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment: The location of the subject site and the surrounding area is unlikely to have any significant views or vistas to any significant landmarks. As a result no adverse loss of views is likely as a result of the proposed non-compliance.

*To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment: As stated previously, there is unlikely to be any significant loss of views caused as a result of the proposed development.

*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment: The north boundary adjoins an area of public open space. Hence, the proximity of the dwelling to this boundary is unlikely to result in any adverse loss in residential amenity, in regard to privacy, visual impact or solar access.

*Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment: The proposed development has provided sufficient landscaped area to comply with the numerical requirements of Council and ensure an attractive streetscape.

*Flexibility in the siting of buildings and access. (En, S)*

Comment: As stated previously, the orientation of the dwellings on the corner allotment require that each dwelling (as requested by Council in the pre-lodgement meeting) have a frontage to both Gladstone and Bishop Streets, respectively. Therefore it is not necessary to require that the 6.5m rear setback be applied to the north boundary. In this regard, flexibility in the siting of the dwellings, rather than strict compliance is necessary.

*Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment: Not applicable to the proposed development.

*To ensure a landscaped buffer between commercial and residential zones is established. (En, S)*

Comment: Not applicable to the proposed development.

## Conclusion

Based on the commentary above, the application of the 6.5m rear setback to the north boundary is not considered necessary under the circumstances. Despite this, the proposal is still consistent with the

Outcomes of the control. The non-compliance is therefore supported.

#### **D10.11 Building envelope (excluding Newport Commercial Centre)**

##### Description of Non-Compliance

A breach of the side boundary envelope occurs on the east elevation of the dwelling fronting Gladstone Street.

The breach has an estimated area of 11.4m (length) and a height of 4.7m.

##### Consideration of Outcomes

*To achieve the desired future character of the Locality. (S)*

Comment: The desired future character of the Newport Locality specifically states in relation to the proposed development: "Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development." The site is located on the valley floor and has no native vegetation, habitat or tree canopy. In this regard, the proposed development is consistent with the desired future character.

*To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment: The extent of the breach is relatively minor and will not add significantly to the building scale and density of the existing built form. This is particularly relevant in the context of the adjoining development on the east boundary of the site, which is a three-storey residential flat building (No.12 Gladstone Street). The development is hence consistent with this Outcome.

*To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment: The subject site contains no significant natural environment, however adjoining the site is public open space and to the north-east of the site is a stand of mature trees, adjoining the flat building at No.12. The part of the dwelling subject to the proposed breach of the envelope is not in close proximity to these areas. Hence the proposed development provides an adequate response to existing natural environment and this Outcome is achieved.

*The bulk and scale of the built form is minimised. (En, S)*

Comment: As stated previously, the extent of the breach is relatively minor. Further, the context of the breach is that it adjoins a much larger residential flat building and the visual impact of the breach is diminished as a result. Therefore the development is consistent with this Outcome.

*Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment: The potential impact of views as a result of the breach would potentially relate to existing dwellings to the east and south of the site. These dwellings would not have any significant views and therefore no view loss is likely as a result. The proposal is therefore consistent with this Outcome.

*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment: The breach of side boundary envelope on the eastern boundary is unlikely to result in any adverse loss of visual/acoustic privacy, loss of solar access or significant visual impact when viewed from adjoining properties. Hence, this Outcome is achieved.

### Conclusion

Based on the assessment undertaken, the extent of the breach of the side boundary envelope will not result in any adverse loss of amenity and has demonstrated consistency with the Outcomes of the control.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$13,550 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,355,000.

## **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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.1B Minimum lot sizes for dual occupancies has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

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

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

## RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.1B Minimum lot sizes for dual occupancies development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2019/1338 for Demolition of existing dwelling and construction of detached dual occupancy dwelling on land at Lot 11 DP 10548, 14 Gladstone Street, NEWPORT, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
J1317 Page 2 of 13 Issue C	10 February 2020	Atria Designs
J1317 Page 3 of 13 Issue C	10 February 2020	Atria Designs
J1317 Page 4 of 13 Issue C	10 February 2020	Atria Designs
J1317 Page 5 of 13 Issue C	10 February 2020	Atria Designs
J1317 Page 6 of 13 Issue C	10 February 2020	Atria Designs



J1317 Page 7 of 13 Issue C	10 February 2020	Atria Designs
J1317 Page 7 of 13 Issue C	10 February 2020	Atria Designs

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
E299793 Sheet D1 Issue B	23 April 2020	Donovan Associates
E299793 Sheet D2 Issue B	23 April 2020	Donovan Associates
E299793 Sheet D3 Issue B	23 April 2020	Donovan Associates

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report Title / No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No.938834M_03	26 November 2019	Frys Energywise
Flood Risk Management Report E299793 Issue C	23 April 2020	Donovan Associates

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LP 1 Sheet 1 of 1	23 October 2019	Fluid Design

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
-	18 April 2019	Newport Homes

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 2. 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.

### 3. 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 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (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

### 4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$13,550.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,355,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

## **5. 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 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, 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](http://www.northernbeaches.nsw.gov.au)).

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

## **6. Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$2000.00 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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.

## CERTIFICATE

### 7. **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 PITTWATER DCP21, , and generally in accordance with the concept drainage plans prepared by Donovan Associates, drawing number E299793 issue B D2, dated 23.04.2020. 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.

### 8. **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.

### 9. **Stormwater Drainage Application for connection to Council's drainage infrastructure**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the pipeline from the development to connect into Council's stormwater drainage system(headwall) by means of core drilling to the wall which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

### 10. **Amended Landscape Plan**

Landscape Plans are to be amended as follows:

i) Provide an additional three (3) native trees capable of attaining a minimum height of 5 metres and of minimum pot size 25 litre in the garden beds along the western boundary to provide a generally evenly spaced continuous canopy.

ii) Provide an additional two (2) native trees capable of attaining a minimum height of 5 metres and of minimum pot size 25 litre in the garden beds along the southern boundary to provide a



generally evenly spaced continuous canopy.

iii) Provide screen planting capable of attaining a minimum height of 2.5m at minimum 1 metre centres in formed garden beds along the northern and eastern boundaries

Reason: Environmental amenity

## 11. **Flooding**

In order to protect property and occupants from flood risk the following is required:

### Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

### Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Probable Maximum Flood level of 6.0m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

### Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 5.68m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

### Flood Emergency Response – E2

Appropriate access to the shelter in place refuge should be available from all areas of the new development.

### Floor Levels – F1

New floor levels within the development shall be set at or above the Flood Planning Level of 5.68m AHD

### Floor Levels – F2

The underfloor area of the dwelling below the 1% AEP flood level of 5.18m AHD is to be designed and constructed to allow clear passage of floodwaters. The underfloor perimeter of the dwelling is to have a minimum of 50% open area below the 1% level

### Car parking – G5

The floor level of the proposed garage shall be set at or above the 1 in 100 year flood level of 5.18m AHD.

### Fencing – H1

Fencing (including pool fencing, boundary fencing, balcony balustrades and accessway

balustrades) shall be open for passage of flood waters - All new fencing on the property must be design with a minimum of 50% open area between the 1% flood level of 5.18m AHD and natural ground level, to allow flood waters to pass through.

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

**Reason:** To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

12. **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.

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](http://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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **No Access Through Adjoining Park/Reserves**

Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.

Reason: To ensure protection of council parks/reserves.

15. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees

unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with local planning controls and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

**16. Tree removal within the road reserve**

i) This consent includes approval to remove the following trees located within the road reserve:

Species	Location
1 x <i>Callistemon</i> sp.	Gladstone Street road reserve to accommodate the new driveway crossover

ii) Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council Public Trees Section prior to removal.

Reason: Public liability

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

**17. 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.

**18. 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.

**19. Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

20. **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.

21. **Installation and Maintenance of Sediment Control**

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

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

22. **Vehicle Crossings**

The Applicant is to construct two vehicle crossings 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 1 & 3 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**

### **23. Landscape completion certification**

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

### **24. Certification of stormwater Water Management Report**

The Applicant shall submit a certificate from a suitably qualified practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.), or equivalent and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required within this development consent is to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To ensure Stormwater Management has been built in accordance with the plans and specifications required under this consent.

### **25. Management of flood risk Certification of the Structural Stability of the Building**

A suitably qualified structural engineer is to certify the structural stability of the new development considering lateral flood flow, buoyancy, suction effects, wave action and debris load impact of the Probable Maximum Flood design flood depths and velocities. Details demonstrating compliance are to be submitted to the Certifying Authority for approval.

#### **Undercroft Area below the 1% AEP Flood Level**

A restriction shall be imposed on the title of the land, pursuant to S88B of the Conveyancing Act confirming that the undercroft area does not impede flows and is not to be enclosed, with the perimeter having a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. The terms of such a restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

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

26. **Landscape maintenance**

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) 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.

Reason: To maintain local environmental amenity.

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

**Signed**



**Nick England, Planner**

The application is determined on 21/05/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**