

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0885
----------------------------	-------------

Responsible Officer:	David Auster
Land to be developed (Address):	Lot 166 DP 752046, 13 Bungendore Street INGLESIDE NSW 2101
Proposed Development:	Construction of a secondary dwelling
Zoning:	RU2 Rural Landscape
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mia Elizabeth Anne Holman
Applicant:	John Richard Holman

Application Lodged:	16/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	28/08/2019 to 11/09/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 298,000.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves construction of a secondary dwelling, located near the south eastern part of the site. The proposed secondary dwelling will comprise two bedrooms, a study, bathroom, kitchen, living room and powder room with attached double garage.

The application has been appealed to the Land and Environment Court, as a deemed refusal. The appeal will be discontinued if this application is approved.

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 - 5.4 Controls relating to miscellaneous permissible uses
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
 Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.11 Secondary Dwellings and Rural Worker's Dwellings
 Pittwater 21 Development Control Plan - D6.6 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 166 DP 752046 , 13 Bungendore Street INGLESIDE NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Bungendore Street.</p> <p>The site is irregular in shape with an average frontage of 123.3m along Bungendore Street and an average depth of 190.9m. The site has a surveyed area of 25,880m².</p> <p>The site is located within the RU2 Rural Landscape zone and accommodates a one storey dwelling house currently under construction and two metal sheds on concrete slabs (one of which is the subject of this application).</p> <p>The site has a cross fall from the south-eastern frontage toward the northwest of approximately 36.3m.</p> <p>The site contains rock outcrops and scattered rocks throughout aswell as areas of clumped native canopy trees and native vegetation and some cleared land.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mixture of residential dwellings and ancillary rural</p>

infrastructure within landscaped settings.

Map:



SITE HISTORY

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

Development Application DA2019/1381

This application for the use of an existing farm building on the site for farm stay accommodation is currently under assessment by Council.

Complying Development Certificate CDC No. 20190848

This CDC for the construction of a single storey dwelling was issued by a private certifier on 8 August 2019. A Notice of Commencement was issued on 24 June 2019, and an Occupation Certificate was provided to Council on 28/10/2020 (Council Ref: FOC2020/1704)

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

Section 4.15 Matters for Consideration'	Comments
	on 13 April 2018. The subject site has not been used for any purposes that give rise to a contamination risk. The proposed development 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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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. Additional information was requested in relation to land fill, biodiversity, arborist report and bushfire APZ requirements.</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 the natural and built environment and social and	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report.</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Roger Fenwick, dated February 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The development was referred to the NSW Rural Fire Service, who have provided conditions of consent. These conditions have been included as conditions of consent in the recommendation of this report.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/08/2019 to 11/09/2019 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Rex Angus Raggatt	4 McCowen Road INGLESIDE NSW 2101

The following issues were raised in the submissions and each have been addressed below:

- Design character of secondary dwelling

- View loss
- No primary dwelling
- Vegetation clearing
- Excavation and fill
- Changing of the Land Zoning of the subject site and subsequent sale of the land
- Habitation of two (2) sheds within the property
- Dumping of soil on Council land
- Use of a Helicopter at the site

The matters raised within the submissions are addressed as follows:

- **Design character of secondary dwelling**

Concerns were raised regarding the visual attractiveness of the proposed secondary dwelling.

Comment:

The proposed design is for a single storey secondary dwelling, with a skillion style roof form. It includes varied setbacks and depth, provided by the attached garage and surrounding deck, which the roof extends over. The design is considered simple, but inoffensive, and the submission is not supported in this regard.

- **View loss**

Concerns were raised that the proposal would unreasonably impact on the bushland outlook/view from number 11 Bungendore Street. This submission did not come from the owners or residents of number 11, who made no submissions.

Comment:

The proposed secondary dwelling is located on a similar level to the dwelling at number 11 Bungendore Street, and it is likely that it will block some view across the valley in a westerly direction. However, the dwelling at number 11 is generally orientated towards the north, and has only two relatively small windows facing to the west. Given that no objections were received from this neighbour, and that the proposed secondary dwelling complies in full with the relevant built form controls (with an extremely minor non-compliance of 50mm to the side setback control), the proposal is not considered to result in unreasonable view loss.

- **No primary dwelling**

Concerns were raised that there was no primary dwelling on site.

Comment:

A secondary dwelling must by definition be established in conjunction with a principal dwelling on the same lot of land. In this case a primary dwelling has been constructed on the land under a Complying Development Certificate. As such, the submission is not supported in this regard.

- **Vegetation clearing**

Concerns were raised with regard to trees and vegetation being cleared on the site.

Comment:

The subject application does not propose any removal of vegetation. The wider concern of said previous removal does not relate to the application at hand. Therefore this matter does not warrant the refusal of the application.

- **Excavation and fill**

Concerns were raised that there has previously been unauthorised excavation and filling of the site.

Comment:

The subject application does not propose any significant excavation or fill. A geotechnical report was originally requested as the plans indicated more than 1m of fill. However, amended plans were provided that indicated no significant fill was proposed. Further, the survey provided indicates that no significant fill (greater than 1m in depth will take place). The proposal is considered acceptable in this regard.

- **Changing of the Land Zoning of the subject site and subsequent sale of the land**

Concern is raised in regard to the change of zoning of the site from Conservation Land to RU2. There is also concern in regards to the sale of such property and it is requested such land be bought back by the State Government and re-instated to Conservation Land.

Comment:

This is not a matter that relates to the subject application. Therefore this matter does not warrant the refusal of the application.

- **Habitation of two (2) sheds within the property**

Concern is raised that two (2) existing sheds on the property are being used for habitation purposes.

Comment:

This is not a matter that relates to the subject application. The proposed development comprises construction of a secondary dwelling, in conjunction with the principal dwelling on site.

Therefore this matter does not warrant the refusal of the application.

- **Dumping of soil on Council land**

Concern is raised that the owner of the property has been previously dumped volumes of soil in front of the subject site on Council land.

Comment:

This is not a matter that relates to the subject application. Therefore this matter does not warrant the refusal of the application. The issue has been referred to Council's Compliance department for investigation.

- **Use of a Helicopter at the site**

Concern is raised that the owner of the property has previously operated and landed a helicopter within the property grounds.

Comment:

The application has not applied for any approval of any helicopter flights. Therefore this matter does not warrant the refusal of the application.

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>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.</p> <p>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.</p>
Environmental Compliance (Building Control)	<p>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.</p> <p><i>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.</i></p>
Environmental Health (unsewered lands)	<p>General Comments</p> <p>Proposal to construct a second dwelling on the Lot. Environmental Health has considered the impact on the existing wastewater system - an aerated system with sub-surface irrigation.</p> <p>The design loading rate of the existing wastewater system is currently 1440 L/day. The engineering report by Holman Engineering Pty Ltd states a calculation based on the latest guidelines adopted by Sydney Catchment Authority (SCA). In this report the proposal is for the existing four bedroom house plus the proposed two bedrooms giving a total loading rate of 1200 L/day. Our team takes the stance that each habitable room must be accounted for, therefore the proposed dwelling's "study" room is included to make a total of 7 bedrooms.</p> <p>Using the same SCA document for calculations, we agree that the existing infrastructure is sufficient to cope with the increased load on the wastewater system and can consequently give a recommendation for approval.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>The development proposes construction of a detached secondary dwelling. The proposal is acceptable in terms of achieving the landscape outcomes of Pittwater 21 DCP, subject to conditions to protect existing trees and vegetation.</p> <p>Landscape area is satisfied in accordance with Pittwater 21 DCP. No</p>

Internal Referral Body	Comments
	<p>landscape plans are provided with the application as the existing landscape including canopy trees is retained. The existing landscaping strip along the southern boundary satisfies clause C1.11.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping C1.11 Secondary Dwellings D6 Ingleside Locality</p>
NECC (Bushland and Biodiversity)	<p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and relevant Pittwater DCP natural environment controls. The property also contains native vegetation mapped within the SMCMA V3 mapping project (OEH 2016).</p> <p>The property is 2.59 ha in size, and an irregular shape measuring approximately 140m by 175m. The property currently contains areas of clumped native canopy trees and native vegetation and some cleared land.</p> <p>The proposal is for the construction of a secondary dwelling located close to the road and bushfire mitigation measures including an Asset Protection Zone (APZ) to Inner Protection Area (IPA) standards across the whole property.</p> <p>The submitted Bushfire Assessment Report (Roger Fenwick, February 2019) states that, "<i>Vegetation on the large block of land adjoining the bulk of the site to the SW is all managed to IPA standards. All other vegetation is more than 100m distant.</i>", "<i>No vegetation removal associated with construction of the dwelling or APZs is proposed.</i>" and "<i>The grounds of the property shall in perpetuity be managed as an Inner Protection Area as outlined in S 4.1.3 and Appendix 5 of PBP and the RFS document 'Standards for asset protection zones'.</i>"</p> <p>A comparison between the proposal plans and aerial photographs show at least 2 trees which would be impacted by the proposed works. The site also contains many more trees than shown on the site survey. In accordance with LEP Clause 7.6 Biodiversity, the proposal is required to demonstrate that the works have been designed to avoid and minimise impacts to biodiversity. There are opportunities to relocate the secondary dwelling where there are no trees impacted by the proposal.</p> <p>Council's Natural Environment - Biodiversity section cannot complete this assessment until further information is provided.</p> <p><i>Required Information to be submitted</i> An Arborist Report is required to be prepared and submitted to support the application in accordance with the following:</p> <ul style="list-style-type: none"> • must identify the location, species, health and size of all trees within 5m of the proposed development (including any

Internal Referral Body	Comments
	<p>trenches for utilities);</p> <ul style="list-style-type: none"> • Prepared by a suitably qualified arborist with minimum AQF Level 5; • Prepared based on the actual plans and documentation submitted in support of the DA; • Take into account all above- and below-ground works and structures that are ancillary to the development, including any changes in soil/ground level around the base of canopy trees; • A tree protection and management plan with specific tree protection measures to enable safe retention of all trees proposed for retention, including mapping Tree Protection Zones, Structural Root Zones and any encroachments. <p>Bushfire APZ requirements and the Biodiversity Offset Scheme The statements and recommendations within the bushfire report and interaction with the NSW <i>Biodiversity Conservation Act 2016</i> require clarification. Firstly, the bushfire consultant is required to clarify the requirements of establishing and maintaining the proposed APZ to IPA standards, and whether any native vegetation or trees within the property would require modification / removal to comply with IPA standards. The references provided to PBP 2006 in the recommendations do not describe requirements of IPAs. Secondly, any application which is proposes native vegetation within a proposed APZ must determine if the proposal will exceed the threshold for entry into the Biodiversity Offset Scheme (BOS), and provide a Biodiversity Development Assessment Report (if BOS triggered) prepared by an Accredited Assessor. Native vegetation and clearing native vegetation have the same meanings as in Part 5A of the Local Land Services Act 2013. One entry trigger into the Biodiversity Offset Scheme is known as the 'area threshold'. The area threshold for this property is 0.5 ha. Council is of the understanding that there is currently no approved APZ within the property and as such the area of native vegetation proposed to be an APZ, i.e. entire property, is to be included in the area threshold. The area of native vegetation is to be calculated using the guidance provided by the NSW Government.</p> <p>The NSW Government has provided the following advice for bush fire related clearing: <i>Bush fire Asset Protection Zones must be considered when determining whether a biodiversity development assessment report is required.</i> <i>For the purposes of deciding whether a biodiversity development assessment report is required, the entire bushfire Asset Protection Zone (APZ) must be included in the development footprint when applying the biodiversity offsets scheme threshold.</i></p> <p>Planners Comment The proposal as presented does not involve the removal of any trees or the clearing of any vegetation.</p>

Internal Referral Body	Comments
	<p>The biodiversity comments suggest that at least two trees will be impacted and that the site may contain more trees than shown on the site survey (which is dated 11/3/19).</p> <p>The reference in the biodiversity comments to “ Council is of the understanding that there is currently no approved APZ within the property and as such the area of native vegetation proposed to be an APZ, i.e. entire property, is to be included in the area threshold” is now incorrect.</p> <p>There is an existing CDC for a dwelling which requires an APZ for a substantial area which covers the necessary APZ for the secondary dwelling (and the proposed farm stay building) as required by the RFS. This dwelling has been constructed and the APZ has been established. Also part of the APZ was affected by a storm event in March 2020 which involved removal of a number of trees.</p> <p>Initially there was a concern raised about the bushfire assessment and requirements for the CDC but this has been resolved by Council so that the CDC bushfire requirements are operational for the site.</p> <p>The NSW Government document Bushfire related clearing and the Biodiversity Conservation Act 2016 has been put out to assist in assessing the biodiversity requirements of the Biodiversity Conservation Act and the APZ requirements of the bushfire legislation (Rural Fires Act together with Planning for Bush Fire Protection document).</p> <p>Importantly, this document states as follows:</p> <p><i>If a landowner has an approved APZ or a 10-50 clearing entitlement relating to an existing building, approved clearing in these areas does not need to be considered in determining whether a biodiversity development assessment report is required for a subsequent development application.</i></p> <p>Councils consultant ecologist confirms that this is the position.</p> <p>This means that the lawful establishment of the APZ for the dwelling CDC (and any 10/50 clearing entitlement) override any requirement for a BDAR.</p> <p>Further, even if there is any issue with unlawful clearing this clearing is not relevant and cannot form any part of any area clearing threshold calculation under the Biodiversity offsets scheme. This is because the scheme deals with the proposed clearing under assessment (and this is also confirmed by the Department’s website - <i>Biodiversity reform: your questions answered</i> which says that unlawful clearing should be dealt with as a compliance issue).</p> <p>Finally, clause 7.6 of the LEP also addresses proposed development and as there is no proposed clearing or specific tree removal then</p>

Internal Referral Body	Comments
	<p>there is no specific activation of clause 7.6(3) for the assessment of the application.</p> <p>In terms of clause 7.6(4) of the LEP in the circumstances referred to above the council can be satisfied that the development has been designed and sited to avoid any significant adverse environmental impact. Further, there will be standard conditions for the protection of existing trees during construction which is also relevant to this clause.</p>
NECC (Development Engineering)	<p>The proposal includes the filling of the land to achieve the levels for the proposed dwelling. The proposed fill exceeds 1 metre in depth on the western and portions of the northern elevation. In accordance with Clause B8.1 of the DCP, a Geotechnical report in accordance with the requirements of the Geotechnical Risk Management Policy for Pittwater is required for the proposal.</p> <p>The proposal will require a new driveway crossing and the proposed method of stormwater disposal is satisfactory.</p> <p>Development Engineering cannot support the application due to insufficient information to address Clause B8.1 of Pittwater 21 DCP 2014.</p> <p>Amended plans received 9/10/2019</p> <p>The amended plans have been altered with respect to the natural ground levels. It is suggested that Planning provides a condition to ensure the maximum fill allowable for the proposed development is to be 1.0 metre in order to comply with the DCP.</p> <p>Development Engineers raise no objections to the proposal, subject to a specific condition to limit the fill to 1 metre and the following conditions as recommended.</p> <p>Planner's Comment</p> <p>The applicant has presented evidence that the vehicle crossing has already been approved by Council's Engineers. As such, the condition for Vehicle crossings has been deleted.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed under Pittwater 21 DCP B5.8 - Water Quality Pittwater 21 DCP B4.11 - Land Adjoining Bushland Pittwater 21 DCP B8.2 - Erosion and Sediment Management.</p> <p>As the proposed development is over 50sqm, water quality controls apply.</p> <p>The applicant must ensure that the stormwater collected on the roof of the proposed secondary dwelling can infiltrate nearby, downslope of the dwelling. A sediment arrestor pit or an infiltration trench designed to capture coarse sediments must be incorporated before or at the outlet.</p>

Internal Referral Body	Comments
	<p>Sediment and erosion controls must be installed prior to any work on site and maintained until all work is complete and 70 percent of groundcover has been re-established with jute matting or similar on the remainder of the exposed ground.</p> <p>It's not clear why the plans show the development has an outlet into Wirreanda Creek, as a property of this size would normally drain to infiltration beds on the lot. Usually properties that are allowed to drain to a watercourse are restricted to only one outlet. This property has at least two outlets that are close to each other. If these are not yet constructed, an application for a controlled activity permit to the NRAR must be made.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The application was referred to the NSW Rural Fire Service who provided a response in a letter (Ref: DA19082620170 ME, dated 6 September 2019) stating that the proposal is acceptable subject to recommended conditions. These conditions will be enforced as conditions of consent.

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 period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1017568S_03).

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

Commitment	Required Target	Proposed
Water	40	51
Thermal Comfort	Pass	Pass
Energy	50	53

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. 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
Height of Buildings:	5.5m	5.14m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

5.4 Controls relating to miscellaneous permissible uses

The control provides that if development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 25% of the total floor area of the principal dwelling.

The principal dwelling on site has a floor area of 402.2sqm. The plans as originally proposed had a floor area of 106sqm, greater than the maximum 25% permitted. The plans were amended slightly by the applicant to reduce the floor space of the secondary dwelling to 100sqm to comply with the 25% requirement above. As such, the proposal now complies with the control.

7.6 Biodiversity protection

The area surrounding the proposed secondary dwelling is to be managed as an Asset Protection Zone in accordance with NSW Rural Fire Service requirements. See discussion under Bushland and Biodiversity in Referrals section of this report.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20m	44m	N/A	Yes
Rear building line	20m	132m	N/A	Yes
Side building line	7.5m (to boundary with 11 Bungendore)	7.45m	0.7%	No
	7.5m to (southern boundary)	19.6m	N/A	Yes
Building envelope	3.5m	Within envelope all sides	N/A	Yes
Landscaped area	96% minus 400sqm (24444.8sqm)	25755.4sqm	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)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B5.6 Rainwater Tanks - Water Supply	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	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
B8.4 Construction and Demolition - Site Fencing and Security	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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D6.1 Character as viewed from a public place	Yes	Yes
D6.3 Building colours and materials	Yes	Yes
D6.5 Front building line	Yes	Yes
D6.6 Side and rear building line	No	Yes
D6.7 Building envelope	Yes	Yes
D6.8 Landscaped Area - Non Urban General	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Concerns were raised by a submission regarding the impact on views from number 11 Bungendore Street. The submission did not come from 11 Bungendore, and as such access was not gained to that property to inspect.

However, the dwelling at number 11 is primarily orientated to the north, with primary views in that direction. There are two relatively small windows facing to the west in the general direction of the proposed secondary dwelling. The views are bushland/district views, considered to be of moderate value. However, the views to the north are considered to be the primary views.

The secondary dwelling itself complies with all relevant built form controls, with an extremely minor (50mm) variation proposed to the side setback control caused by the garage, but this non-compliance will not in itself contribute to view impacts given the secondary dwelling sits to the west of the garage.

Given these considerations, the proposal is not considered to result in unreasonable view loss, and the proposal is generally consistent with the Tenacity principles for view sharing.

C1.11 Secondary Dwellings and Rural Worker's Dwellings

Description of non-compliance

The clause states that a secondary dwelling or rural worker's dwelling will contain not more than two (2) bedrooms and not more than one (1) bathroom.

The proposed secondary dwelling includes two bathrooms. It also includes two bedrooms and one study, which could be converted to a third bedroom relatively easily. An assessment against the objectives is therefore carried out below.

Merit consideration

Limitation of the visual bulk and scale of development.

Comment:

The proposal has been designed to comply with the maximum floor area and height of buildings requirements under the PLEP and is therefore consistent with the desired bulk and scale of secondary dwellings. Inclusion of the extra bathroom and study internally by use of dividing walls does not alter the visual bulk and scale of the building externally.

Provision of design flexibility for second storey development.

Comment:

N/A

Restriction of the footprint of development site.

Comment:

The proposed floor area of the secondary dwelling complies with the maximum requirements. Internal walls could be removed to open up the study to the main living area, and the bathroom could be removed, without altering the footprint of the proposal. Given the proposal complies with the maximum floor space requirement, the objective is considered to be achieved.

Retention of natural vegetation and facilitation planting of additional landscaping.

Comment:

No tree removal or vegetation clearing is proposed as part of the application. Ample room will remain on the large site to provide planting.

Provision of rental accommodation.

Comment:

The proposal will provide for rental accommodation, given a secondary dwelling cannot be strata subdivided and sold separately.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D6.6 Side and rear building line

Description of non-compliance

The proposal does not comply with the numerical control for side building line of 7.5m to the eastern boundary with number 11 Bungendore Street. The development proposes to construct a double garage between 7.45m and 10.29m from the boundary. The secondary dwelling is set back a minimum of 10m.

Merit Assessment

With regard to this numerical non-compliance, the proposal is considered against the underlying outcomes of the control as follows:

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

Comment:

The development is generally of a low scale and will not be overly visible when viewed from Bungendore Street. The proposed works are considered to be generally consistent with the desired character statement. The proposal does not dominate the streetscape and is well below the maximum development height standard for the site.

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

Comment:

The proposal is for a single storey dwelling, which will be a maximum of 5.14m in height. The proposed built form will not result in an overbearing or unreasonable bulk and scale in the rural area. The development complies with the side boundary envelope, front and rear setbacks and does not unreasonably impact on the amenity of surrounding dwellings.

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

Comment:

As discussed in this report, the proposal is not considered to result in unreasonable view impacts, considering that the dwelling at number 11 is orientated primarily towards the north.

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

Comment:

As discussed in this report, the proposal is not considered to result in unreasonable view impacts, considering that the dwelling at number 11 is orientated primarily towards the north. The position of the secondary dwelling is therefore considered to be sufficiently compatible in terms of siting.

- 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 proposal will not have any unreasonable amenity impacts on the adjoining neighbour. The side setback non-compliance is very minor, and will not cause unreasonable impacts in this regard.

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

Comment:

The application does not propose to remove any substantial planting or large trees on the site which contribute to the overall natural character of the site, notwithstanding objections from neighbours regarding previous tree removal across the site. The proposed secondary dwelling will have minimal impact on the streetscape of Bungendore Street.

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

Comment:

The non-compliance with the side setback control is very minor, and is not considered to cause unreasonable impacts in this case.

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

Comment:

No vegetation is proposed for removal as part of this application.

- A landscaped buffer between commercial and residential zones is achieved. (En, S)

Comment:

Not applicable

- To preserve and enhance the rural and bushland character of the locality (En, S)

Comment:

The application does not propose any removal of vegetation or trees, notwithstanding objections regarding previous tree removal across the site. The style of the proposed secondary dwelling is not considered to detract from a rural and bushland character.

- To ensure a landscaped buffer between commercial and residential zones is established

Comment:

Not applicable.

Given the above considerations, the minor non-compliance to the side boundary setback control is considered acceptable in the circumstances.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$2,980 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$298,000.

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0885 for Construction of a secondary dwelling on land at Lot 166 DP 752046, 13 Bungendore Street, INGLESIDE, 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
Job No. 20412 Sheet 2 Issue F	8/11/19	Parker + Associates Building Design Consultants
Job No. 20412 Sheet 3 Issue F	8/11/19	Parker + Associates Building Design Consultants
Job No. 20412 Sheet 4 Issue F	8/11/19	Parker + Associates Building Design Consultants
Job No. 20412 Sheet 5 Issue F	8/11/19	Parker + Associates Building Design Consultants
Job No. 20412 Sheet 6 Issue F	8/11/19	Parker + Associates Building Design Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1017568S_03	12 November 2019	Parker and Associates
Flora and Fauna Surveys and Biodiversity Impact Assessment	August 2020	ACS Environmental Pty Ltd

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Job No. 20412 Sheet 8 Issue F	8/11/19	Parker + Associates Building Design Consultants
Northern Beaches Council Waste Management Plan	15 August 2019	John Holman

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	RFS Referral Response	6 September 2019

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

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

3. **Approved Land Use**

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

A secondary dwelling is defined as:

“means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

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

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

4. **No Approval for tree removal or clearing of vegetation**

No approval is granted under this Development Consent for any tree removal or clearing of vegetation beyond what is permitted by the conditions of this consent.

Reason: To ensure compliance with the relevant Local Environmental Plan.

5. **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.

6. 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) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (o) 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

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,980.00 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 \$298,000.00.

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

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.

8. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment)

is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

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

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

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

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

9. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site in accordance with Clause B5.10 of Pittwater 21 DCP 2014.

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

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

10. Structural Adequacy and Excavation Work

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

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

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

Reason: To provide public and private safety.

11. 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.

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. **Extent of fill**

No fill greater than 1m in depth is approved. Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of a construction certificate.

Reason: Compliance with geotechnical requirements.

14. **Preparation of Environmental Management Checklist**

A Construction Environmental Management Checklist (CEMC) is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats (including the identified hollow-bearing trees), during the construction phase. Measures specified in the checklist are to include all conditions of consent addressing construction-related impacts to biodiversity. The CEMC is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.

15. **Delineation Asset Protection Zone and Crown Land Boundary**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the extent of the bush fire Asset Protection Zone and the property boundary that adjoins Crown Land must be surveyed and marked on ground.

The clearing of vegetation for Asset Protection Zone establishment is to be confined within Asset Protection Zone boundaries, and is not to encroach onto the adjoining Crown Land. If any clearing takes place on Crown Land, Council and the NSW Department of Industry - Land must be notified immediately.

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

Reason: Bushland Protection.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

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.

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. 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.

19. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site not approved for removal, excluding exempt vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works,

a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees,
- xii) any associated works including water quality management devices shall not be located within the tree protection zone of existing trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

20. **No importation of Fill**

During site excavation and construction works, no excavated site material, or imported fill material is to be temporarily stockpiled or deposited within the asset protection zone identified on site. Materials and stockpiles are to be stored outside of asset protection zones and not located within the dripline of existing trees which are to be retained.

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

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

21. **Stormwater Disposal**

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

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

22. **Removal of Sediment and Erosion Controls**

Once vegetation cover has been re-established across 70 percent of the site, the applicant is to remove all temporary sediment and erosion controls.

Any area of the site that requires ongoing stabilisation must have jute mesh or matting incorporated into the revegetated area. Mulch may be used on slopes subject to sheet flow with a gradient of no more than 1 metre in height for every 3 horizontal metres. Mulch must be laid to a depth of 50-100mm. If using mulch within two metres of the top of bank of a waterway, coir logs or similar must be placed at the downslope edge of the mulched area to prevent migration of the mulch to the waterway.

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

Reason: Protection of the receiving environment

23. **Extent of fill**

No fill greater than 1m in depth is approved. Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of an occupation certificate.

Reason: Compliance with geotechnical requirements.

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

24. **Bush Fire conditions**
Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works, and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset Protection Zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. The provision of water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
3. A 20,000 litre water supply shall be provided on the site in accordance with 'Planning for Bush Fire Protection 2006' and the following if one does not already exist:
 - Aboveground tanks shall be constructed of noncombustible material.
 - A 65mm metal storz fitting and ball or gate valve shall be installed in any tank.
 - The gate or ball valve, pipes and tank penetration shall be adequate for full 50mm inner diameter water flow through the Storz fitting and shall be metal rather than plastic.
 - A standard Static Water Supply (SWS) marker shall be obtained from the District NSW Rural Fire Service as part of the Static Water Supply Program once the tank water supply has been installed.

The marker once issued is to be:

- (a) fixed in a suitable location so as to be highly visible;
- (b) positioned adjacent to most appropriate access for the static water supply;
- (c) fixed facing the roadway on a gatepost, fence or dedicated post, at the right hand side of the entranceway to the Static Water Supply;
- (d) fixed no less than 600mm from the ground surface to the base of the sign and not higher than 1200mm from the ground surface to the base of the sign; and,
- (e) fixed with suitable screws or nails.

- A minimum 5hp or 3kw petrol or diesel powered pump shall be made available to the water supply required to be provided on the site. All associated fittings to the tank

should be noncombustible and the pump should be shielded from the direct impact of any potential bush fire.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. New property access roads shall comply with section 4.1.3(2) of Planning for Bush Fire Protection 2006.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. New construction shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

Landscaping

6. Any new landscaping is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Reason: Bushfire safety.

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

Signed



David Auster, Planner

The application is determined on 09/11/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments