

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0210
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 11 DP 1226203, 77 A Myola Road NEWPORT NSW 2106 Lot 2 DP 538888, 81 Myola Road NEWPORT NSW 2106 Lot 1 DP 538888, 77 Myola Road NEWPORT NSW 2106
Proposed Development:	Construction of a common access driveway
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David John Catchlove Mary Dewsall Catchlove
Applicant:	David John Catchlove Jonathan Milligan

Application Lodged:	15/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	24/03/2021 to 07/04/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 54,800.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a common access driveway. In particular, the works include:

- Construction of a new reinforced concrete driveway 3m wide to replace the existing common access driveway;
- A passing bay will be provided midway along the length of the driveway to allow for the passing of vehicles in order to manage vehicle movements to and from the street; and
- The new driveway will be centrally located over the existing access handles to No's 77 & 77A

Myola Road with reciprocal rights of carriageway to be created to allow all three lots to utilise the driveway access.

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 - 5.10 Heritage conservation

Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan - B6.2 Internal Driveways

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 11 DP 1226203 , 77 A Myola Road NEWPORT NSW 2106 Lot 2 DP 538888 , 81 Myola Road NEWPORT NSW 2106 Lot 1 DP 538888 , 77 Myola Road NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of three (3) allotments located on the eastern, high side of Myola Road. The three allotments subject to this application include: <ul style="list-style-type: none"> • 77 Myola Road, Newport (legally referred to as Lot 1 DP 538888); • 77A Myola Road, Newport (legally referred to as Lot 11 DP 1226203); and • 81 Myola Road, Newport (legally referred to as Lot 2 DP 538888)

The site is irregular in shape with a combined frontage of 18.525m along Myola Road and a east to west depth measured at 150m. The site has a combined surveyed area of 5,633.8m².

Vehicular and pedestrian access are gained via a shared right of carriageway that runs alongside the southern boundary of the site.

The site is located within the E4 Environmental Living zone and accommodates dwelling houses on each allotment.

No. 77 Myola Road, Newport contains a dwelling house known as "Bungonia" which is heritage listed under Schedule 5 of the Pittwater Local Environmental Plan 2014 (Heritage Item 2270017). The property also contains a weatherboard and stone secondary dwelling that has recently been constructed to the western portion of the site. No(s) 77A and 80 Myola Road are also mapped as being within the vicinity of a heritage item.

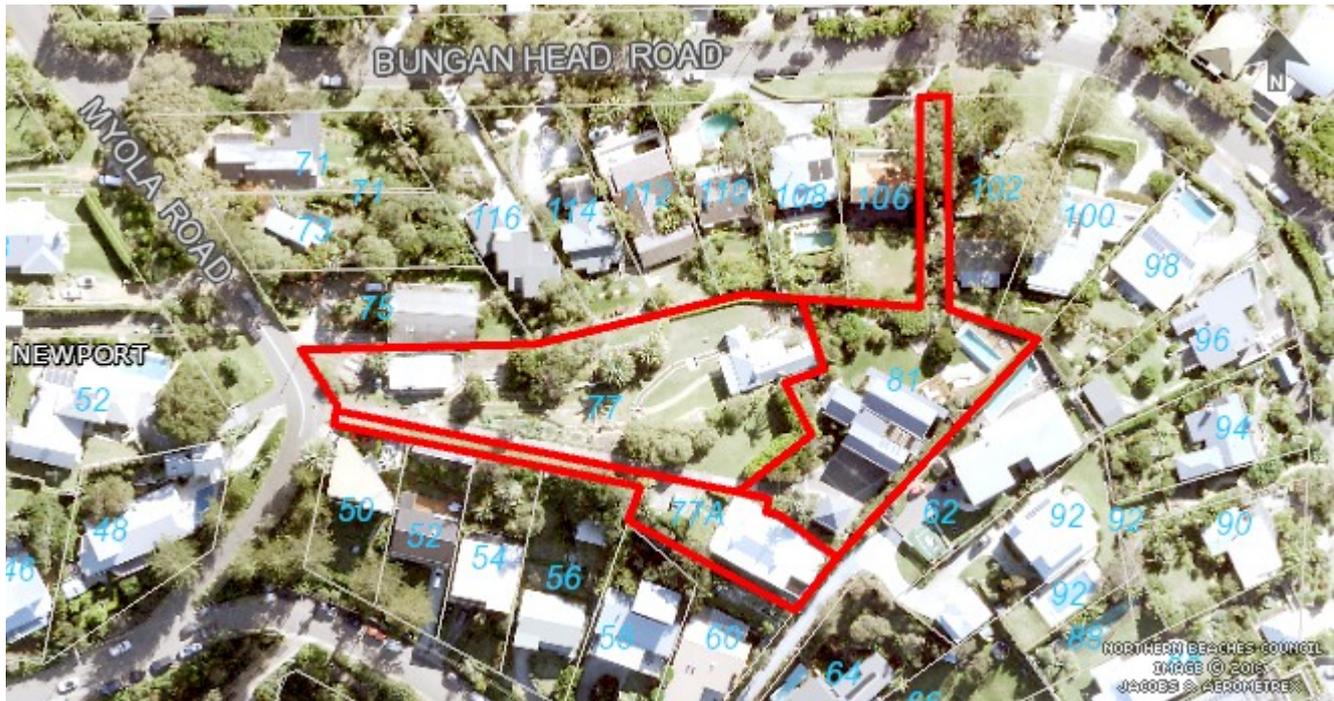
The site has a cross-fall of approximately 12m from the eastern boundary to the Myola Road frontage. The site is also mapped under the Geotechnical Hazard Map - W Hazard H1.

The site is of a modified landscape setting, with vegetation consisting of lawned turf areas as well as native and non-native plantings.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwelling houses in landscaped settings.

Map:



SITE HISTORY

77 Myola Road, Newport

12 July 2018

Development Application DA2018/0449 for the 'construction of a secondary dwelling' was granted consent.

22 December 2015

Development Application No. N0009/15 for the 'subdivision of one lot into two lots' was withdrawn.

17 July 2020

Modification Application Mod2020/0251 to Development Consent N0390/11 for 'alterations and additions to the existing dwelling' was granted consent.

1 April 2020

Modification Application Mod2020/0120 to Development Consent DA2018/0449 for 'construction of a secondary dwelling' was granted consent.

14 February 2012

Development Application No. N0390/11 for the 'alterations and additions to the existing dwelling' was granted consent.

77A Myola Road, Newport:

9 April 2020

Development Application No. DA2019/1529 for the 'Alterations and additions to a dwelling house' was granted consent.

20 May 2002

Development Application No. N0296/02 for the 'Alterations to existing dwelling' was granted consent.

6 June 2000

Building Certificate No. BC0056/00 for the 'One storey sandstone and timber sole occupancy dwelling with metal roof' was issued.

81 Myola Road, Newport:

14 April 2014

Building Certificate No. BC0118/13 for 'A two storey sole occupancy weatherboard dwelling with a metal roof together with a detached two storey weatherboard studio and carport and an inground pool and timber deck' is issued.

11 April 2005

Development Application No. N0872/04 for the 'Demolition of existing dwelling and construction of a new sole occupancy dwelling, swimming pool and detached studio' is granted consent.

APPLICATION HISTORY

26 April 2021

Site inspection undertaken by the assessing officer.

6 May - 19 May 2021

Various emails between the assessing officer and the property owner of No. 77 Myola Road to resolve issues raised concerning the design of the driveway, specifically its width and provision for two passing bays.

3 June 2021

Arborist Report provided by the applicant and received by Council following concerns raised by Council's Landscape Officer regarding impact to trees.

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	Draft State Environmental Planning Policy (Remediation of Land)

Section 4.15 Matters for Consideration'	Comments
of any draft environmental planning instrument	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)(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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Following initial concerns raised concerning the impacts of the proposed works on existing trees, an amended Arboricultural Impact Assessment has been provided with the 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/03/2021 to 07/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Roy Robert McLeod	C/- Blue Sky Building Designs Po Box 167 NEWPORT NSW 2106
Mr Gavan William Alston Potter Daniela Papa	58 Bungan Head Road NEWPORT NSW 2106

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

- **Stormwater run-off arising from the proposed driveway**

Comment:

Concerns were raised in submissions with regards to the management of stormwater run-off arising from the proposed driveway. Council's Development Engineer has reviewed this aspect of the proposal and provided comments detailing that *"the stormwater runoff from the driveway will be collected and directed to the street"*. It is therefore expected that this run-off will be directed westwards towards Myola Road. The submitted Geotechnical Report, Ref. J2641A, dated 5 February 2021 also states that *"no significant additional stormwater run off will be created by the proposed development"*. In this regard, the proposal is considered capable of meeting the requirements of Clause B5.15 Stormwater of the P21 DCP.

- **Stability of the site**

Comment:

Submissions raised concern with the stability of the subject site, with specific reference to a retaining wall along the southern side of the proposed driveway. Council's Development Engineer has reviewed this aspect of the proposal and has placed appropriate conditions should any retaining wall works be required. Any retaining wall is required to be certified as compliant

with all relevant Australian Standards and Codes by a Structural Engineer. Council's Development Engineer has also recommended geotechnical conditions to be complied with prior to the issue of a Construction Certificate and prior to the issue of an Occupation Certificate. The submitted Geotechnical Report, Ref. J2641A, dated 5 February 2021 details that *"no geotechnical hazards were observed above, below, or beside the properties"*. In this regard, the proposal is considered capable of meeting the relevant Geotechnical requirements of the PLEP 2014 and P21 DCP.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>This application is for the demolition and removal of an existing shared driveway, and the construction of a new shared driveway to service four separate dwellings.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D10.13 Landscaped Area - Environmentally Sensitive Land <p><u>Original Comments - 22/03/2021</u></p> <p>The Statement of Environmental Effects provided with the application makes note that the proposed works shall not impact, nor necessitate the removal of any protected trees. This is supported by the engineering plan as no trees have been indicated as removed.</p> <p>Concern is raised regarding the impact of the proposed works on the surrounding trees located in the adjoining properties to the south. The proposed driveway alignment appears to encroach into the Tree Protection Zone's (TPZ), as well as Structural Root Zone's (SRZ) of these trees in adjoining properties. As no Arboricultural Impact Assessment has been provided with the application, it is currently unclear as to the extent of influence the proposed works shall have on these trees. All trees located on adjoining properties shall be protected and retained throughout the life of the development, as the removal and damage of these trees shall not be supported. These trees are required to be protected and retained in accordance with controls B4.22 and D10.13, as key objectives include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as to ensure "vegetation is retained and enhance to visually reduce the built form".</p> <p>Concern is also raised regarding the impacts of demolition and construction on trees and vegetation within the property boundaries, specifically the garden bed to the immediate north of the existing driveway. Although the proposed works are suspected to have minor impacts on this portion of vegetation, this vegetation provides valuable</p>

Internal Referral Body	Comments
	<p>screening and softening of the built form behind, which is a key objective of controls B4.22, C1.1 and D10.13. If this vegetation is removed or damaged as a result of the works, it shall be required to be replaced in order to satisfy these controls.</p> <p>In its current form, Landscape Referral cannot support the application due to insufficient information regarding the impacts of the proposed works on existing trees, both within the site and in adjoining properties to the south. It is therefore recommended an Arboricultural Impact Assessment be provided in order to provide further insight into the proposed works and the likely impact it will have on existing trees specifically with regards to TPZ and SRZ encroachments, as well as the expected health and vitality of these trees moving forward. Should additional information be provided, further assessment can be undertaken.</p> <p><u>Updated Comments - 21/06/2021</u></p> <p>Following original concerns regarding the impacts of proposed works on existing trees, an amended Arboricultural Impact Assessment has been provided with the application.</p> <p>Within the amended Arboricultural Impact Assessment, a tree root investigation has been conducted. This tree root investigation notes no significant roots are present, hence the proposed driveway will not significantly impact the health and long term viability of these trees. As a result of this investigation, no concerns are raised regarding the driveways alignment, and the potential impacts on existing trees.</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation.</p>
NECC (Development Engineering)	<p>03/05/2021:</p> <p>Access</p> <p>Proposal is for construction of a 3m wide common access reinforced concrete driveway (with one, 5m wide passing bay provision) to replace the existing driveway access (2.44m wide) caters to No's 77, 77A & 81 Myola Road, Newport.</p> <p>As per Pittwater DCP, Section B6.2-Internal Driveways</p> <p>The Internal Driveway shall be contained within the driveway corridor. The minimum width of the driveway corridor (i.e. impervious pavements together with grassed shoulder area) shall be as follows:</p> <ul style="list-style-type: none"> • Single Dwelling: 3.0 metres minimum. • Dual Occupancy: 3.0 metres minimum. • Combined driveway for more than 2 dwellings: 3.0 metres minimum except where the driveway length exceeds 40 metres, a passing bay to an overall minimum width of 5.0 metres for a length of 10 metres with suitable transitions to the adjacent narrow driveway.

Internal Referral Body	Comments					
	<p>Hence the driveway width to be more than 3m and as the total driveway length is approximately 91m so, at least two passing bays to be provided.</p> <p>Stormwater The stormwater runoff from the driveway will be collected and directed to the street.</p> <p>Excavation Geotechnical Report prepared by White Geotechnical Group, Report No J2641A, Dated 5 February 2021 is provided.</p> <p>For Planner It is noted that Council's Landscape Officer has requested additional information. In case this additional information leads to change in driveway alignment or design, Development Engineer requires to re-assess.</p> <p>Planner Comments 17/05/2021:</p> <p>A request made by the property owner of No. 77 Myola Road, Newport, in relation to requirements to widen the driveway to 3.5m and provide an additional passing bay. Concerns were raised concerning the necessity of these conditional changes, particularly from a heritage protection perspective. Council's Development Engineer provided comments on 17/05/21 detailing that given 'the driveway is straight with enough visibility of incoming vehicles, that one passing bay of 10m long and 5m wide would be acceptable as well as a minimum driveway width of 3m'.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1"> <thead> <tr> <th data-bbox="520 1379 1442 1413">HERITAGE COMMENTS</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 1413 1442 1447">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="520 1447 1442 1771"> <p>The proposal has been referred to Heritage as one of the subject properties is a heritage item, and there is a heritage item opposite the site.</p> <p>Bungania (house) at 77 Myola Road</p> <p>2 Palms & 1 Port Jackson Fig and part of castellated stone wall - 52 Myola Road</p> </td> </tr> <tr> <th data-bbox="520 1771 1442 1805">Details of heritage items affected</th> </tr> <tr> <td data-bbox="520 1805 1442 2136"> <p>Details of the items as contained within the Pittwater inventory is as follows:</p> <p>Bungania <u>Statement of significance:</u> Bungania, at 77 Myola Road Newport, was built c.1890 by A.G. Yewen as a house for his family, has historic and aesthetic significance as a sandstone cottage dating from the early development of Newport used as an artists' colony. It is the oldest</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as one of the subject properties is a heritage item, and there is a heritage item opposite the site.</p> <p>Bungania (house) at 77 Myola Road</p> <p>2 Palms & 1 Port Jackson Fig and part of castellated stone wall - 52 Myola Road</p>	Details of heritage items affected	<p>Details of the items as contained within the Pittwater inventory is as follows:</p> <p>Bungania <u>Statement of significance:</u> Bungania, at 77 Myola Road Newport, was built c.1890 by A.G. Yewen as a house for his family, has historic and aesthetic significance as a sandstone cottage dating from the early development of Newport used as an artists' colony. It is the oldest</p>
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Internal Referral Body	Comments		
	<p>surviving building on Bungan Head, being part of the early subdivision. The house itself displays significant architectural features such as stone walls, high gothic ceilings and open fireplaces with the stone used quarried from the site. It is an important representative of its type in the locality.</p> <p><u>Physical description:</u> The house is located on a steep sloped site covered with large rocks, trees and ferns with scenic views over Pittwater. View from the street is screened by luxuriant vegetation creating a natural bush setting.</p> <p>The house follows the contours of the hillside and comprises of a rambling single storey house with significant architectural features such as stone walls, high gothic ceilings, iron roof and weatherboard definitions as well as open fireplaces with the stone used quarried from the site. It is importantly representative of its type in the locality.</p> <p>2 Palms & 1 Port Jackson Fig and part of castellated stone wall</p> <p><u>Statement of significance:</u> The 2 Palms & 1 Port Jackson Fig and part of castellated stone wall are a part of prominent ornamental plantings and section of castellated wall reflecting landscape style of the interwar period, with local historical and aesthetic significance.</p> <p><u>Physical description:</u> Two palms, one Port Jackson Fig and part of castellated wall</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	Yes	Bungania is on the register
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	The proposal seeks consent to remove the existing shared driveway for 77, 77A and 81 Myola Road and replace it with a new shared driveway. 77 Myola Road contains a heritage item known as 'Bungania'. 77A and 81 Myola Road are not heritage listed		

Internal Referral Body	Comments
	<p>properties. Given the proposal is for the replacement of an existing concrete driveway with a new concrete driveway, the proposal is considered to not impact upon Bungania or its significance. Heritage also raises no objections to the proposal for a new sandstone wall and pillar to match the existing one to the north of the existing driveway.</p> <p>Given the small scale nature of the proposal and it being located opposite the subject site across Myola Road, the proposal is considered to also not impact upon the significance of the heritage item at 52 Myola Road.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 19 March 2021</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating "decision not required", therefore, it is assumed that no objections are raised and no conditions are recommended.

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 who provided a response stating "decision not required", therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

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

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The subject development application does not seek any tree removal nor is it anticipated to significantly impact upon the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest. Therefore, the proposed development is not considered to significantly impact upon the matters identified in this clause.

15 Development in coastal zone generally—development not to increase risk of coastal

hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

It is considered that the proposed development is not likely to cause increased risk of coastal hazards on the subject site or other land.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater Local Environmental Plan 2014

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

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

5.10 Heritage conservation

Refer to comments from Council's Heritage Advisor (Principal Planner) under the "Referrals" section of this report.

Pittwater 21 Development Control Plan

Built Form Controls

The proposed works largely result in an increase in hard surface areas along the access handle of No. 77A Myola Road, Newport (Lot 11 DP 1226203). A recently issued development consent DA2019/1529 for this property detailed that the landscaped area for this allotment was 23.4% of the site area and therefore non-compliant with the 60% requirement.

It should be noted that the assessment of this development consent specifically excluded the access handle from the calculation. It is recognised that despite the driveway resulting in a further reduction (108.3m²) to the overall landscaped area, that the proposal seeks a practical vehicular access arrangement for each three allotments and that the further breach does not result in the removal of any native plantings or trees.

As such, the proposal is not seen to result in unreasonable impact to the character and amenity of the locality or adjoining properties, vegetation or stormwater and therefore the non-compliance is supported on merit.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes

Detailed Assessment

B6.1 Access driveways and Works on the Public Road Reserve

Council's Development Engineer has confirmed that the proposed driveway at 3m in width is satisfactory.

B6.2 Internal Driveways

As detailed earlier in this report, the property owner of No. 77 Myola Road, Newport requested a reconsideration the conditional changes for the further widening of the driveway to 3.5m and to provide a second passing back. Council's Development Engineer provided comments on 17/05/21

detailing that given 'the driveway is straight with enough visibility of incoming vehicles, that one passing bay of 10m long and 5m wide would be acceptable as well as a minimum driveway width of 3m'.

D10.13 Landscaped Area - Environmentally Sensitive Land

The proposed works largely result in an increase in hard surface areas along the access handle of No. 77A Myola Road, Newport (Lot 11 DP 1226203). A recently issued development consent DA2019/1529 for this property detailed that the landscaped area for this allotment was 23.4% of the site area and therefore non-compliant with the 60% requirement. It should be noted that the assessment of this development consent specifically excluded the access handle from the calculation. It is recognised that despite the driveway resulting in a further reduction (108.3m²) to the overall landscaped area, that the proposal seeks a practical vehicular access arrangement for each three allotments and that the further breach does not result in the removal of any native plantings or trees. As such, the proposal is not seen to result in unreasonable impact to the character and amenity of the locality or adjoining properties, vegetation or stormwater and therefore the non-compliance is supported on merit.

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0210 for Construction of a common access driveway on land at Lot 11 DP 1226203, 77 A Myola Road, NEWPORT, Lot 2 DP 538888, 81 Myola Road, NEWPORT, Lot 1 DP 538888, 77 Myola Road, 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
Ref. 4012F_2 (Proposed Driveway)	7 August 2020	Adam Clerke Surveyors Pty Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report 77, 77A, & 81 Myola Road, Newport, Ref. J2641A	5 February 2021	White Geotechnical Group Pty Ltd.
Arboricultural Statement - Development Application: DA2021/0210 Response to Northern Beaches Council Landscape Officer Requested Response (Dated 22 March 2021)	20 May 2021	"Growing my way" Tree Consultants (Kyle A Hill)

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

Northern Beaches Council Waste Management Plan	25.02.21	David Catchlove & Jon Milligan C/- Vaughan Milligan Development Consulting Pty Ltd
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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 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. 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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group, Report No J2641A, Dated 5 February 2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

6. **Vehicle Driveway Gradients**

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

The Applicant is to construct one passing bay of 5m wide and at least 10m long. Passing bay cannot be located along frontage of any dwelling. The plans are to be generally in accordance with the concept Civil plans prepared by Adam Clerke Surveyors Pty Ltd, Drawing number 4012F_2, Dated 07/08/2020.

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

Reason: To ensure suitable vehicular access to private property.

7. **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.

8. **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.

9. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

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

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

11. Condition of Trees

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

12. **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.

13. **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.

14. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/4 EH 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

15. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

17. **Environmental and Priority Weed Control**

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

Reason: Preservation of environmental amenity.

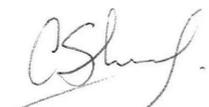
In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Kent Bull, Planner

The application is determined on 08/07/2021, under the delegated authority of:



Catriona Shirley, Acting Development Assessment Manager