

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0486
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<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 3 DP 1167665, 1 E Bungan Head Road NEWPORT NSW 2106
<b>Proposed Development:</b>	Construction of a dwelling house
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Jonathan Andrew Case
<b>Applicant:</b>	Jonathan Andrew Case

<b>Application Lodged:</b>	14/05/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	25/05/2020 to 08/06/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,210,101.40
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the construction of a dwelling house with detached parking on a vacant lot at 1 E Bungan Head Road. Specifically, the works involve the following;

#### Outdoor:

- Double hardstand, with associated driveway and turning bay area,
- Free standing shed, which will be adjacent to the hardstand,
- Entry stairs that will connect the lower parking area to the dwelling house,
- Affiliated landscaping works.

#### Ground floor:

- Partially covered outdoor deck, which will extend along the western and northern side of the dwelling,
- BBQ area will be located on the northern facing deck,
- The dwelling's ground floor will include a kitchen, living room, dining room, study, bathroom and internal stairs.

### **First floor:**

- The first floor includes one master bedroom with an ensuite and WIR, two bedrooms, bathroom and laundry.

## **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites

Pittwater 21 Development Control Plan - B3.1 Landslip Hazard

Pittwater 21 Development Control Plan - B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor

Pittwater 21 Development Control Plan - B5.7 Stormwater Management - On-Site Stormwater Detention

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

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

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

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

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 3 DP 1167665 , 1 E Bungan Head Road NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject development site is a single allotment located on the southern side of Bungan Head Road, Newport, and is legally identified as Lot 3 DP 1167665.</p> <p>The site is zoned for E4 Environmental Living development pursuant to the Pittwater Local Environmental Plan 2014 and is contained within Are 'H1' of PLEP's Geotechnical Hazard Map.</p> <p>The site is a rear allotment of a battle-axe subdivision arrangement.</p> <p>The subject site is irregular in shape and has an access handle parallel to the western boundary measuring 4.6 metres in width by 17.35 metres in length. The access handle forms part of a Right of Carriageway that is shared by, 1B Bungan Head Road, 240 Barrenjoey Road, 238 Barrenjoey Road and 1D Bungan Head Road. Beyond the access handle, the allotment is irregularly shaped with the western boundary measuring 34.36metres, the southern boundary measuring 43.3m, the eastern boundary measuring 16.0 and the northern boundary measuring 44.2metres, equating to a total surveyed area of 811.6 square metres.</p> <p>The site presently is an undisturbed vacant lot.</p> <p>The site slopes in the western direction with an approximate fall of 14.8m.</p> <p>Surrounding developments consist of other residential developments of varying age, size and construction.</p>

Map:



## SITE HISTORY

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

### **N0051/09:**

Development application for a 4 lot subdivision of land known as Nos 232 to 234 Barrenjoey Road, Newport. This proposal was granted development consent by the Land & Environment Court on 06 June 2011.

### **N0051/09/S96/1:**

Modification application for development consent N0051/09, which sought to defer to construction of the driveway to Lot C and amend condition F1 to reflect the proposed modifications. This application was approved on 27 August 2012.

### **MOD2017/0317:**

Modification application for development consent N0051/09. This application was approved on 12 March 2018.

### **DA2019/1243:**

Development application for the construction of a dwelling house and detached garage at the subject site known as 1 E Bungan Head Road. This proposal was withdrawn on 17 January 2020 due to the following matters; *Inconsistent with Land Environment Court approval, Natural Environment - Biodiversity, Engineering Issues, Over-shadowing, Privacy, Front building Line, Building envelope, and Landscaping.*

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been vacant for it's entirety. 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&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</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 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 David Alexander Raffles	1 Bungan Head Road NEWPORT NSW 2106

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

- **Excavating existing rock outcrop**

The matters raised within the submissions are addressed as follows:

- **Excavating existing rock outcrop:** Concern is raised with the proposed cutting of the existing rock outcrop, as it may impact the stability of the adjoining land at No.1 Bungan Head Road.

### Comment:

The proposal has included a Geotechnical Report prepared by STS Geotechnics, which has included various recommendations to ensure geotechnical risks - like the above concerns - are mitigated appropriately. Furthermore, imposed conditions will ensure that these recommendations are incorporated into the construction plans and that a dilapidation report is conducted prior to the commencement of any works and an additional report will be required at the completion of the works. Overall, it is considered that the recommended conditions will satisfactorily address any unreasonable geotechnical risk for No.1 Bungan Head Road.

## REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
Landscape Officer	<p>The development proposes the construction of a new dwelling house and associated external works upon a vacant lot.</p> <p>Council's Landscape Referral section has assessed the proposal against the Pittwater Local Environmental Plan clause E4 Environmental Living zone, and the following Pittwater 21 DCP Controls:</p> <p>B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D10 Newport Locality, including D10.13 Landscaped Area - Environmentally Sensitive Land</p> <p>The site is located in the E4 Environmental Living Zone, requiring development to achieve a scale integrated with the landform and landscape. Existing trees, unless approved for removal, shall be protected from construction activity, with tree protection measures to be in place.</p> <p>The proposal is acceptable in terms of achieving the landscape outcomes of E4 Environmental Living and Pittwater 21 DCP, subject to conditions to the retention of nominated existing trees that can be preserved and subject to the the completion of landscaping to satisfy C1.1 and D10.13.</p> <p>A landscape plan is provided with the application indicating the inclusion of trees, shrubs, ferns and groundcovers and is acceptable.</p> <p>A arboricultural impact assessment report is provided that satisfies the DA Lodgement Requirements. The recommendations are accepted where removal is required for the development footprint and no alternative development footprint appears to be available. The development application as amended now includes the retention of additional existing trees previously proposed for removal that was not supported.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following applicable controls:</p> <ul style="list-style-type: none"> <li>- Pittwater LEP Clause 7.6 (Biodiversity Protection)</li> <li>- Pittwater DCP Clause B4. (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor)</li> </ul> <p>It is acknowledged that the amended proposal will be generally located within the approved building footprint and that measures have been taken to minimise impacts to protected native trees. The submitted landscape plan, comprising locally native species and replacement planting, is also consistent with the objectives of the applicable controls. It is therefore considered that the proposal complies, subject to implementation of the Landscape and Biodiversity referral bodies' recommended conditions.</p>
NECC (Development	The development/site is located in Geotechnical Hazard H1 Area, an "

Internal Referral Body	Comments
Engineering)	Acceptable Risk Management" level is achievable in accordance with the geotechnical report. The stormwater management plan is acceptable. No Development Engineering objection subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>A site inspection was conducted on the 11 June 2020. The visibility during the site inspection was poor and an adequate assessment of the proposed development area was not possible.</p> <p>The area has not been subject to previous disturbance, therefore it is an area of high potential although there are no sites are recorded in the current development area.</p> <p>The Aboriginal Heritage Office recommends a subsequent site inspection once the vegetation has been cleared and visibility is greater. This should be undertaken by a qualified consultant archaeologist or the Metropolitan Local Aboriginal Land Council.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p> <p>If you have any queries, please contact me on (02) 9976 1682.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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



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

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

A BASIX certificate has been submitted with the application (see Certificate No. 1048807S\_02 dated 08 May 2020).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	91

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

### 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	Complies
Height of Buildings:	8.5m	8.2m	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

##### **7.2 Earthworks**

Geotechnical assessment of the proposal has been submitted with the application. The proposed development is considered acceptable, subject to the recommendations of the report and related conditions of consent imposed by Council.

##### **7.6 Biodiversity protection**

Council's Natural Resources Officer raised no objection to the proposed development, subject to the included conditions of consent.

##### **7.7 Geotechnical hazards**

The Geotechnical Report prepared for the application concluded that the development is suitable for the site and will not create any geotechnical hazards, subject to the recommendations included in the report. Further conditions in relation to excavation work and geotechnical hazards have also been included by Council's Development Engineers.

#### **Pittwater 21 Development Control Plan**

##### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Merit assessment - Battle axe	Nil (Hardstand) 16.5 (Dwelling)	N/A	Yes* (Merit assessment)
Rear building	6.5m	9.5m (Dwelling)	N/A	Yes

line				
Side building line	2.5m - North	1.6m (Ground floor deck) 2.2m (First floor bedroom)	12% - 36%	<b>No</b>
	1.0m - South	2.5m (Dwelling)	N/A	Yes
Building envelope	3.5m	Outside envelope - One encroachment between nil - 2.2m for a length of 6.8m	62.9%	<b>No</b>
	3.5m	Outside envelope - Two encroachments between 0.1m - 0.8m for a length of 4.3m & 0.2m - 0.8m for a length of 3.7m	2.9% - 22.9%	<b>No</b>
Landscaped area	60%	52% (377.3sqm)	13%	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.2 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
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	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
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

### Detailed Assessment

#### **B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites**

The subject site has been classified as an area of extremely high potential for containing Aboriginal heritage. This primarily attributed to the fact that the subject site has not been previously developed and the geographical links to Bush-rangers Hill. Therefore, the Aboriginal Heritage Office has recommended a subsequent site inspection once the vegetation has been cleared and visibility is greater, which is to be undertaken by a qualified consultant archaeologist or the Metropolitan Local Aboriginal Land Council.

#### **B3.1 Landslip Hazard**

The subject site is contained within Area 'H1' of PLEP's Geotechnical Hazard Map, as such, the proposal has included a Geotechnical Report prepared by STS Geotechnics (October 2019). The recommendations contained within this report have been included within the conditions of consent.

#### **B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor**

Council's Biodiversity Officer concluded that the proposal can be undertaken without significant or serious and irreversible impacts to the existing natives species, subject to recommended conditions of consent.

#### **B5.7 Stormwater Management - On-Site Stormwater Detention**

The proposed development would result in an addition impervious area that exceeds 50sqm. Accordingly, the application requires the provision of on-site detention (OSD) tanks pursuant to Clause

B5.7 of the P21 DCP. As such, the application has submitted a drainage plan prepared by Hyten Engineering (April 2020), which has been reviewed by Council's Development Engineers and complies with the requirements of this Control.

### **B8.1 Construction and Demolition - Excavation and Landfill**

The proposed excavation is considered to be acceptable, as assessed under LEP Clause 7.2 Earthworks.

### **C1.1 Landscaping**

Council's Landscape and Natural Resources Officers raised no objection to the proposed landscaping.

### **C1.5 Visual Privacy**

Having regard to this localised situation, the assessment of privacy is based on the principle of not creating additional unreasonable impacts on the existing level of privacy between neighbours.

Clause C1.5 requires neighbouring private open space areas to be protected from direct overlooking within 9m by the building layout.

Whilst the proposed dwelling includes a first floor element it will be set back at a minimum of 2.2m from the northern side boundary, with the proposed windows being set back well over 9m from the nearest dwelling house.

As a result, the proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

#### Comment:

The proposed dwelling is adequately designed in relation to privacy. There is minimal glazing on the northern elevation and imposed conditions will ensure 'W21' is made translucent to prevent any unreasonable privacy impacts. In addition, the proposed dwelling will be appropriately separated from the boundaries affording sufficient space for the establishment of vegetation that is of a size and scale that can screen the built form, when viewed from adjoining properties. Overall, the proposed dwelling provides suitable separation from nearby existing dwellings, adequate privacy mitigation measures and is supported by significant vegetation that provides additional screening.

- *A sense of territory and safety is provided for residents.*

#### Comment:

Given the above, the proposed development retains a sense of territory and safety for the residents of the subject site, and does not result in unreasonable privacy impacts to the adjacent property.

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

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

Clause D10.7 of the P21DCP requires development (other than driveways, fences and retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

The subject forms part of a battle-axe development. The proposed hardstand provides a nil to the front boundary which also forms the rear boundary of the vacant lot located to the west of the subject lot.

The proposed development is assessed against the underlying outcomes of the control as follows:

- *Achieve the desired future character of the Locality.*

##### Comment:

The proposed development located in a battle-axe configuration being at the rear of four lots with access provided from Bungan Head Road. The proposed dwelling will not be overly visible when viewed from Bungan Head Road given the length of the access handle along the western elevation of the site. Similar subdivision patterns are evident along Bungan Head Road with the dwellings located centrally within the lots, which is consistent with the proposal. Given the constraints of the site, the dwellings location will ensure the amenity of the surrounding properties is maintained.

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

##### Comment:

The proposed hardstand will be excavated below the existing ground level, as such, there will be no views impacts.

- *The amenity of residential development adjoining a main road is maintained.*

##### Comment:

The site does not adjoin a main road and as such, this objective is not of relevance.

- *Vegetation is retained and enhanced to visually reduce the built form.*

##### Comment:

The proposed works within the front setback will involve removal of vegetation as the site has not been cleared for development. However, the proposal has included a detailed landscape plan which ensure critical vegetation is protected, while sufficient tree replacement planting and boundary planting is implemented, such that the landscape outcomes of Pittwater 21 DCP are achieved. Overall, it is considered that the proposal will provide adequate vegetation, which visually reduces the built form.

- *Vehicle manoeuvring in a forward direction is facilitated.*

##### Comment:

The proposed on site parking will allow for vehicles to enter and exit the site in a forward direction.

Therefore, the proposal is considered acceptable in this regard.

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

Comment:

Despite the variation to the front setback requirement, the proposal is in keeping within the height and scale of the existing streetscape of Bungan Head Road Road.

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

Comment:

Having regard to the matters stipulated above, the proposal will not adversely impact the street frontage.

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

Comment:

As noted throughout this report, the proposal responds to established development within the locality.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / 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.

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

Description of non-compliance

The control requires structures be setback a minimum of 1m from one side boundary and a minimum of 2.5m from the other side boundary.

The proposed development is sited 1.6m at its closest point to the northern side boundaries, therefore representing a variation of 36% (2.5m).

Merit consideration

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

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

Comment:

The proposed dwelling is centrally sited and is well articulated such that the dominance of the built form is reduced. The development remains within the maximum allowable building height, and it is also noted that the proposal falls generally within the approved building footprint (N0051/09), so that native vegetation is retained and protected. In turn, the built form will remain sufficiently screened as

presented to the public domain and surrounding properties. The proposal is therefore considered to achieve the desired future character of the locality.

- *The bulk and scale of the built form is minimised.*

Comment:

The inclusion of varying materials and setbacks allows for the bulk and scale of the built form to be minimised. It is also noted that sufficient planting is proposed within the northern setback area, which will provide adequate screening to the ground floor deck and northern elevation of the proposed dwelling. Furthermore, the picture window (W18&W16) which encroaches the northern side setback only measures 1.3m in length, with the remainder of the first floor complying with the respective 1m and 2.5m setback requirements.

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

Comment:

The proposal is considered to equitably preserve the available views and vistas to and/or from public and private places.

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

Comment:

The proposal is considered to achieve a reasonable level of view sharing as a result of the complimentary siting of the built form, in conjunction with its site-specific design.

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

Comment:

The matter of privacy has been addressed elsewhere within this report (refer to Clause C1.5 Visual Privacy under P21DCP). In summary, the proposal is considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties as a result of adequate building separation, site orientation and aspect and landscape treatment. Further, the application is accompanied by Certified Shadow Diagrams denote compliance with the solar access requirements prescribed within Clause C1.4 of P21 DCP.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment:

The proposed development will involve removal of the vegetation as the site has not been cleared for development. However, the proposal has included a detailed landscape plan which ensures critical vegetation is protected, while sufficient tree replacement planting and boundary planting is

implemented, such that the landscape outcomes of Pittwater 21 DCP are achieved. Furthermore, Council's Landscape Officer has reviewed the proposal and raised no objection subject to conditions requiring protection of existing vegetation. As a result of the site's topography in conjunction with the provision of landscaping, the built form will remain largely unseen as viewed from the streetscape.

- *Flexibility in the siting of buildings and access.*

Comment:

The development has been sited appropriately in accordance with the site constraints and the surrounding residential context, ensuring reasonable amenity can be maintained for the dwelling occupants and those of adjoining and surrounding properties.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

As above, the proposed development will provide high quality landscaping outcomes. In turn, the built form will remain significantly screened from the existing provision of vegetation. Conditions of consent have been imposed requiring the protection of significant species currently on-site which will assist in the retention of landscape treatment.

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

Comment:

Not applicable, given the subject site does not adjoin and commercially zoned property.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / 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.

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

Description of Non-compliance

The control requires development to be within a building envelope projected at 45 degrees at a height of 3.5m above the side boundary. The proposed dwelling encroaches the building envelope on both side boundaries.

Notwithstanding, the slope of the land at the building footprint is approx. 39%. Where the building footprint has a slope is situated on a slope over 16.7 degrees (i.e.; 30%), variation to this control will be considered on a merits basis.

Merit Consideration

With regard to the consideration of the variation, the development is considered under the outcome of the control below

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

Comment:

The proposal is significantly setback from the streetscape and the built form will not result in any unreasonable impacts on the desired future character of the locality. The development remains within the maximum allowable building height, and it is also noted that the proposal falls generally within the approved building footprint (N0051/09), so that native vegetation is retained and protected. In turn, the built form will remain sufficiently screened as presented to the public domain and surrounding properties. The proposal is therefore considered to achieve the desired future character of the locality.

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

Comment:

The proposed non-compliance will not impact on the streetscape, as the subject dwelling will be located at the rear of battle subdivision. In addition, the building scale and density is consistent with the natural environment, such that it sits below the height of existing canopy trees.

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

Comment:

As discussed under DCP Clause D10.8 Side and rear building line, the proposed dwelling is generally consistent with the side setback requirements and appropriately relates to the spatial characteristics of the natural environment.

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

Comment:

The proposal is adequately articulated and designed to minimise the bulk and scale of the built form. Furthermore, the non-compliance is a result of the subject site's topography and is not of an extent that would result in an unreasonable bulk and scale within the locality.

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

Comment:

The proposal was notified to the adjoining neighbours and no issues regarding the loss of views were raised. A site inspection was undertaken and no potential unreasonable view loss was identified. The proposal will not result in any unreasonable obstruction of views from public or private spaces.

- *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 matter of privacy has been addressed elsewhere within this report (refer to Clause C1.5 Visual Privacy under P21DCP). In summary, the proposal is considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties as a result of adequate building separation, site orientation and aspect and landscape treatment. Further, the application is accompanied by Certified Shadow Diagrams denote compliance with the solar access requirements prescribed within Clause C1.4 of P21 DCP.

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

Comment:

The development includes an enhanced landscaping design that will screen and visually reduce the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **D10.13 Landscaped Area - Environmentally Sensitive Land**

Description of non-compliance

The proposal includes 58% landscaped area (including the 6% impervious variation allowed by the control).

The control requires a minimum of 60%.

Merit assessment

The development is assessed against the outcomes of the control, as follows:

- *Achieve the desired future character of the Locality.*
- *The bulk and scale of the built form is minimised.*
- *A reasonable level of amenity and solar access is provided and maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Conservation of natural vegetation and biodiversity.*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
- *To preserve and enhance the rural and bushland character of the area.*
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

The proposal is for a single dwelling house in an E4 Environmental Living zone. The non-compliance is minor, the dwelling is of a good design with a minimal bulk and scale, and the amenity impacts on the neighbouring properties are not unreasonable given the circumstances and site constraints.

The proposed dwelling falls generally within the approved building footprint (N0051/09), so that native

vegetation is retained and protected. In addition, the proposal includes a landscape that demonstrates high quality landscape outcomes, which will enhance the site while improving biodiversity. Stormwater runoff will be appropriately managed and usable outdoor spaces for the residents will be provided.

Overall, the development will be consistent with the desired future character of the locality.

## **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 \$12,101 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,210,101.

## **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 DA2020/0486 for Construction of a dwelling house on land at Lot 3 DP 1167665, 1 E Bungan Head 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA1.00 - Site Plan	21 April 2020	Design Tribe Projects
DA1.01 - Ground Floor and First Floor Plan	21 April 2020	Design Tribe Projects
DA1.02 - Elevations	21 April 2020	Design Tribe Projects
DA1.03 - Sections	21 April 2020	Design Tribe Projects
DA1.04 - Roof and Landscape Plan	21 April 2020	Design Tribe Projects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SW01 - Rev C.	24 April 2020	Hyten Engineering
SW02 - Rev C.	24 April 2020	Hyten Engineering
SW03 - Rev C.	24 April 2020	Hyten Engineering

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Assessment	October 2019	STS Geotechnics P/L
Arboricultural Impact Assessment	April 2020	Koala Arbor Consulting Arborists
Vegetation Management Plan	May 2015	Footprint Green

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

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
Ausgrid	Response Ausgrid Referral	17 June 2020

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

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

## 3. **Prescribed Conditions**

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

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

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

updated information.

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

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

Reason: Legislative requirement.

#### 4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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



management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 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

### 5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$12,101.01 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,210,101.40.

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

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

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

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

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

## 6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

### 7. **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 STS Geotechnics PTY LTD. dated October 2019 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.

### 8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The following window is to be made translucent; 'W21'.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

### 9. **Boundary Identification Survey**

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

The plans submitted for the Construction Certificate are to accurately reflect the property

boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's PITTWATER DCP21, and generally in accordance with the concept drainage plans prepared by HYTEN Engineering, drawing number SW-01, SW-02 and SW-03 (19H402), dated 24.04.2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

**11. Vehicle Driveway Gradients, parking and turning bay**

The Civil Engineer shall design the driveway & gradients, parking and turning bay within the private property are in accordance with AS/NZS 2890.1:2004. 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.

**12. 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.

**13. Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

14. **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.

15. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

16. **Site Inspection**

The site must be inspected by a qualified consultant archaeologist or the Metropolitan Local Aboriginal Land Council, once the vegetation has been cleared within the subject site and visibility is greater.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Details demonstrating compliance must be submitted to the PCA prior to the issue of the construction certificate.

Reason: Aboriginal Heritage Protection.

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

17. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of any built



structures within 5.0m of the proposed rock cutting for those properties listed below.

- 1 Bungan Head Road.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

**18. Tree removal within the property**

The following trees are approved for removal within the property based on the recommendations of the Arboricultural Impact Assessment prepared by Koala Arbor Consulting Arborists, dated 16/04/2020:

- T3 - White Mahogany, T5 - Grey Ironbark, T8 - Sweet Pittosporum, T9 - Grey Ironbark, T10 - Sallow Wattle, and T13 - Black She-Oak.

Approval for removal is subject to tree replacement with two (2) native canopy trees within the rear of the property, to be accommodated within the remaining landscaped area.

Reason: to enable authorised building works

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

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

**19. 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.

**20. Survey Certificate**

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

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

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels,

prior to concrete slab being poured/flooring being laid.

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

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

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

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

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

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

## 22. **Project Arborist**

A Project Arborist with AQF Level 5 qualification in horticulture/arboriculture is to be appointed to supervise and certify tree protection measures for the following existing trees, requiring site attendance during excavation and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the Arboricultural Impact Assessment prepared by Koala Arbor Consulting Arborists, dated 16/04/2020, including:

- T4: Eucalyptus acmenoides (White Mahogany) on adjoining land - works as listed under section 10.5, as well as review of excavation for the driveway; trunk, canopy and root protection; and general tree protection measures,
- T6: Eucalyptus paniculata (Grey Ironbark) - works as listed under section 10.5, as well as siting of access path to minimise intrusion into the SRZ and TPZ; and general tree protection measures,
- T7: Eucalyptus paniculata (Grey Ironbark) - works as listed under section 10.5, as well as siting of deck piers to minimise intrusion into the SRZ and TPZ; and general tree protection measures,
- T19: Eucalyptus paniculata (Grey Ironbark) on adjoining land - excavation works; trunk, canopy and root protection; and general tree protection measures,
- all works listed under section 13 Tree Protection Plan,
- all Hold Points actioned and approved under section 13 Tree Protection Plan, item G Hold Points.

The Project Arborist is to recommend tree protection measures such as tree fencing, trunk protection and ground protection, and supervise all excavation and construction works near all trees, including recommending the construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm(Ø) is damaged by works, unless approved by the project arborist.

Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion. Certification from the Project Arborist to the Certifying Authority shall be issued as a record of works within the tree protection zones of existing trees, including acceptance of the works.

Reason: to ensure the protection of the existing trees

**23. Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected as recommended in the Arboricultural Impact Assessment prepared by Koala Arbor Consulting Arborists, dated 16/04/2020, including:

- i) all trees (T6, T7, T11, T12 and T14) 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 (T1, T4, T13, T15, T16, T17, T18, and T19),
- 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.

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 shall be replaced with a locally native canopy tree.

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

**24. Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level

spaced at 6 metre intervals.

**Reason:** Management of wildlife corridors

25. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

26. **Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan DA1.04 prepared by Design Tribe Projects, inclusive of the following conditions:

- i) at least two (2) native canopy trees within the rear of the property are to be planted at 75 litre pot size,
- ii) tree planting shall be located within a 9m<sup>2</sup> deep soil area and be located a minimum of 5 metres from existing and proposed buildings, and at least 3 metres from other trees,
- iii) tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

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

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

27. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted The PCA.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of final Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

**29. Certification Elevated Parking and driveway**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking and driveway to the development from the public road is in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

**30. 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

**31. 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.

**32. House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

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

33. **Landscape maintenance**

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

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

Reason: to maintain local environmental amenity

34. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

35. **Dead or Injured Wildlife**

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

**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 14/08/2020, under the delegated authority of:



**David Auster, Acting Development Assessment Manager**