

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0154
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<b>Responsible Officer:</b>	Olivia Ramage
<b>Land to be developed (Address):</b>	Lot C DP 367229, 6 Orchard Street WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Construction of a dwelling house on Lot 9
<b>Zoning:</b>	R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Nour Developments Pty Ltd
<b>Applicant:</b>	Skycorp Holdings Pty Ltd

<b>Application Lodged:</b>	27/02/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	06/03/2023 to 20/03/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Deferred Commencement Approval

<b>Estimated Cost of Works:</b>	\$ 861,883.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of the construction of a new dwelling house on the yet to be created Lot 9.

The new dwelling comprises of the ground floor containing subfloor storage, open plan kitchen/living/dining area, laundry, pantry, powder room, one bedroom with ensuite, rumpus room and a rear terrace.

The first floor contains a double garage, entrance area, four bedrooms, one with an ensuite and balcony, bathroom, study nook and storage.

### 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 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments

Pittwater 21 Development Control Plan - D16.6 Front building lines

## SITE DESCRIPTION

<b>Property Description:</b>	Lot C DP 367229 , 6 Orchard Street WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The site consists of two (2) allotments, Lot C in DP 3677229 (6 Orchard Street) and Lot 102 in DP 1033854 (6A Orchard Street), located on the northern side of Orchard Street. 6 and 6A Orchard Street are the subject of Development Consent N0013/15, which approved the subdivision of the land to provide 18 lots.</p> <p>The proposed construction of a dwelling house under this application is limited to Lot 9 approved under N0013/15. The subject site (Lot 9) is regular in shape with a primary frontage to Kite Street and secondary frontage to Fern Creek Road. The site has a surveyed area of 406.6m<sup>2</sup>.</p> <p>The site is located within the R3 Medium Density Residential zone from PLEP 2014 and is currently vacant and largely cleared of vegetation.</p> <p>The subject site slopes downwards from the upper western boundary towards the eastern boundary. The south-western corner of Lot 9 is burdened by an electricity substation and associated easement.</p>

The site is adjoined by vacant lots. Surrounding development within the locality is characterised by predominantly detached residential dwelling houses and medium density residential development.

Map:



## SITE HISTORY

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

### **SC2022/0042**

Subdivision Certificate Application is currently with Council. A Subdivision Certificate reflecting consent N0013/15 has not yet been issued to facilitate registration of the subdivision

### **SWC2021/0004**

Subdivision Works Certificate

Issued on 27 July 2021 by External Private Certifying Authority

### **Mod2019/0062**

Modification Application for relocation of stormwater discharge pipe and replacement of street trees with an alternate species

Approved on 3 June 2019

### **N0013/15/S96/3**

Modification Application N0013/15/S96/3 to remove Lot 8 from the Community Title Management Plan to provide for the Torrens Title subdivision of the lot.

Approved on 21 November 2016

### **N0013/15/S96/2**

Modification Application N0013/15/S96/2 to facilitate the widening of the internal private road reserve, to provide a carriageway width of 7.5m

Approved on 12 September 2016

**N0013/15**

20 Lot Community Title Subdivision, to provide for 18 residential allotments, 1 large residue lot, 1 community lot containing a private road and infrastructure, and construction and dedication of a new public road

Approved on 25 June 2015

**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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to landscaped area.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been</p>

Section 4.15 Matters for Consideration	Comments
	addressed via a condition of consent.
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 (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 06/03/2023 to 20/03/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>As part of the original subdivision approval further detailed site investigation and potential remediation of the site was required as below :</p> <p>Aargus Pty Ltd 27 February 2014 CONCLUSION AND RECOMMENDATIONS</p>

Internal Referral Body	Comments
	<p>The findings of the assessment indicated the following areas of potential environmental concern:</p> <ul style="list-style-type: none"> <li>Potential importation of uncontrolled fill that may contain various contaminants;</li> <li>Current or past use of pesticides;</li> <li>Car park areas where leaks and spills from cars may have occurred;</li> <li>Storage area where chemicals stored; and</li> <li>Asbestos / Fibro features within former or current building structures.</li> </ul> <p>The contaminants that may be present in some of these areas were considered to be of low to moderate significance in terms of risk to the human and environmental receptors identified.</p> <p>Therefore, a Detailed Site Investigation (DSI) is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development and to address the data gaps identified.</p> <p>Based on the information collected during this investigation and in reference to Clause 7 of SEPP 55, the site will be suitable subject to the completion of a Detailed Site Investigation (and after remediation and validation, if required) for the proposed for the proposed subdivision.</p> <p>This appears not have been carried out and is referred to in the SEE as :</p> <p><b>Remediation of Land</b> Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.</p> <p>Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The application is made with respect to a yet to be created lot approved pursuant to N0013/15, as amended. N0013/15 was supported by a Preliminary Site Investigation that provided a series of recommendations to ensure that the site is suitable for residential development. In circumstances where the construction of the proposed dwelling is to be deferred until all works approved pursuant to N0013/15 are completed, Council can be reasonably satisfied that there is no contamination risk in relation to the proposal.</p> <p>The proposed development is consistent with the relevant provisions of Chapter 4 of SEPP (Resilience and Hazards)</p> <p>Therefore Environmental Health can only support construction dependant on no contaminants being found or remediation of site. Conditions supplied.</p>

Internal Referral Body	Comments
	<p>UPDATE 20.6.2023</p> <p>The applicant has provided additional clarification further to the above comments and proposed conditions.</p> <p>Report 29/3/2016 Detailed Site Investigation Australian Geotechnical states:</p> <p>“Therefore the findings of this Detailed Site Investigation, and the results of the chemical analyses, does not indicate that the site poses a risk to human health or the environment and no further investigation is recommended.</p> <p>Environmental Health supports the proposal subject to conditions.</p>
Environmental Health (Unsewered Lands)	<p>The site does not have access to sewer at this time. However, We have been advised that the subdivision must have access to sewer before it proceeds, therefore a further restriction before building approval is unnecessary. Therefore we support the proposal without condition.</p>
Landscape Officer	<p>Council’s Landscape Referral staff have assessed the proposal against the following Pittwater 21 DCP Controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D16 Warriewood Valley Locality, and in particular D16.5 Landscaped Area for Newly Created Individual Allotments, and D16.12 Fences.</li> </ul> <p>The property is a vacant Lot 9 with existing small trees within the rear of the property as shown on the Landscape Plan and these are proposed for retention. Existing street trees are present within the road verge of Fern Creek Road, and all shall be protected and not impacted by construction activities including deliveries, and protection is subject to conditions of consent.</p> <p>The Landscape Plan submitted proposes landscape works to enhance the landscape setting of the lot development and no concerns are raised, subject to conditions of consent, to ensure compliance with the Pittwater 21 DCP landscape controls, including the addition of shrub planting along the front boundary to improve streetscape amenity, to satisfy D16.5 Landscaped Area for Newly Created Individual Allotments.</p>
NECC (Development Engineering)	<p>The submission proposes to drain the site utilising an existing drainage easement through Lot 10. This is supported.</p>

Internal Referral Body	Comments
	<p>A regional detention basin has been provided for the subject lot at subdivision stage, hence on lot detention is not required.</p> <p>A geotechnical report has been provided for the site. Conditions have been provided that require advice provided in the report to be utilised during construction.</p>
NECC (Water Management)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 (clauses 2.8 and 2.12);</li> <li>• Northern Beaches Water Management for Development Policy (WM Policy); and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>NECC Water Management has no objections, subject to conditions.</p> <p>Rainwater tank volume as per BASIX certificates or more than 3000 litres.</p>
Strategic and Place Planning (Development Contributions)	<p>On 6 March 2023, Strategic and Place Planning received a referral request for DA2023/0154 for construction of a dwelling house on Lot 9 (an approved allotment under Development consent N0013/15).</p> <p>Approved lot 9 is a corner allotment, rectangular in shape and has a total site area of 406.6m<sup>2</sup> (34.11m length x 11.92m wide). The proposed plans show access to approved lot 9 will be from Kite Street that is not yet constructed (with its secondary street frontage at Fern Creek Road).</p> <p><b>SUBJECT SITE</b></p> <p>The development site is an approved residential allotment, known as Lot 9 in the subdivision of 6 and 6A Orchard Street, and 9 Fern Creek Road, Warriewood. The subdivision, including approved Lot 9 are not yet registered with NSW Land Registry Services. 6 and 6A Orchard Street are zoned R3 Medium Density Residential under the Pittwater LEP 2014. Approved Lot 9 (the development site) will, when registered, retain the zoning of its parent properties that is R3 Medium Density Residential under the Pittwater LEP 2014.</p> <p><b>Chronology</b></p> <p>On 25 June 2015, the former Pittwater Council issued a Notice of Determination on Development Application N0013/15 involving the subdivision of 6 and 6A Orchard Street, and 9 Fern Creek Road, Warriewood under Community Title and creates 18 residential allotments, 1 large residue lot (known as Lot 20), 1 community lot containing a private road and infrastructure, and construction and</p>



Internal Referral Body	Comments
	<p>dedication of a new public road. This consent included condition 12 requiring the payment of a monetary contribution of \$1,074,618 to Council based on the approved 18 residential allotments. Condition 12 reads as follows:</p> <p><i>12. A cash contribution of \$1,074,618 (subject to (a) below) is payable to Pittwater Council for the provision of public infrastructure and services pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.</i></p> <p><i>a. The monetary component of the developer contribution is to be paid prior to 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. The cash contribution will be adjusted at the time of payment in accordance with the latest Consumer Price Index as published quarterly by the Australian Bureau of Statistics as outlined in Council's Warriewood Valley Section 94 Contributions Plan (Plan No. 15).</i></p> <p><i>b. The proponent shall provide evidence of payment of the cash contribution (subject to (a) above) to the Certifying Authority within 14 days of fulfilling the condition (a).</i></p> <p><i>c. The proponent may negotiate with Council for the direct provision of other facilities and services, the dedication of land in lieu of the cash contribution above (or any portion of that cash contribution) or the deferral of payments through a Material Public Benefit Agreement between Council and the proponent in accordance with the Warriewood Valley Section 94 Contributions Plan (Plan No.15). The agreement for Material Public Benefit Agreement between the proponent and Pittwater Council must be finalised, formally signed and in place prior to the issue of the first Construction Certificate. The Warriewood Valley Section 94 Contributions Plan (Plan No.15) may be inspected at Pittwater Council, 1 Park Street Mona Vale or Council's website.</i></p> <p>Since then, the consent was modified a number of times however Condition 12 (as worded above) has not been changed. On 25 August 2017, Council received the contribution amount imposed for 18 residential allotments approved under consent N0013/15 as amended. On 15 June 2018, a Construction Certificate was issued facilitating the works for subdivision under N0013/15 as amended.</p> <p><b>ASSESSMENT OF DA</b> DA2023/0154 proposes the construction of a dwelling house on proposed Lot 9 approved under the amended consent N0013/15. The subdivision and proposed Lot 9, approved under N0013/15 are not yet registered with NSW Land Registry Services.</p>

Internal Referral Body	Comments
	<p>Development contributions imposed under Consent N0013/15 has been paid. Consent N0013/15 approves the creation of proposed lot 9 (the development site to which a dwelling house is proposed by way of this current DA) and development contributions have been paid for proposed Lot 9 (and future entitlement for a dwelling house on this allotment).</p> <p>As the subject DA, DA2023/1054 seeks to construct one dwelling house on Lot 9, there is no development contribution generated by this development. This is consistent with the Warriewood Valley Contributions Plan since the contribution has been paid against approved Lot 9 accounting for 1 new residential lot to accommodate 1 dwelling on same.</p> <p>As at time of finalising this referral response:</p> <ul style="list-style-type: none"> <li>• a Subdivision Certificate reflecting consent N0013/15 has not been issued to facilitate registration of the subdivision.</li> <li>• Proposed Lot 9 although approved is still an unregistered residential allotment.</li> </ul> <p>Given the above circumstances, it would be prudent to impose a condition restricting the issue of any Occupation Certificate (Interim or Final) for the dwelling house until such time as the development site and the subdivision are duly registered with NSW Land Registry Services.</p> <p>It is also noted that a referral response has also been sought from Environmental Health in relation to 'unsewered land'. This allotment has a currently development consent for subdivision and is in the Warriewood Valley Release Area where all new lots is the Release Area (and via the consent conditions) will need to be connected to water and sewer before the subdivision can be registered with NSW Land Registry Services. The referral is therefore unnecessary and could result in advice contrary with the planning framework for this Release Area. It is recommended that the DA Referral list be amended to remove the requirement for DA proposals for construction of any class of building on land identified under the Warriewood Valley Release Area being referred to Environmental Health (unsewered land).</p> <p><b>RECOMMENDATION</b></p> <p>A. This development application does not generate a development contribution, as this has already paid for under consent N0013/15 for the creation of Lot 9 (the development site upon which a dwelling house is proposed under the DA2023/0154).</p> <p>B. No objection is raised to this DA being granted consent subject to a condition being imposed regarding the timing of an occupation</p>

Internal Referral Body	Comments
	certificate. The condition is to read as follows: Prior to the issue of an Occupation Certificate (Interim or Final) and prior to occupation of the dwelling house, the conditions under consent N0013/15 has been complied with and the subdivision for N0013/15 has been registered with NSW Land Registry Services.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs 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 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. 1342283S dated 5 October 2022).

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

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

**SEPP (Resilience and Hazards) 2021**

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10.5m	7.8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

**Pittwater 21 Development Control Plan**

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line (South)	Garage: 4.0m Dwelling: 3.0m	Kite Street Garage: 5.8m Dwelling: 6.4m	N/A N/A	Yes Yes
Secondary Frontage (West)	Garage: 2.0m Dwelling: 2.0m	Fern Creek Road Garage: 3.8m Subfloor storage: Nil Dwelling: 2.6m-4.7m	N/A 100% N/A	Yes <b>No</b> Yes
Side building line	East Ground Floor: 0.9m Upper Level: 1.5m	Ground Floor: 1.5m First Floor: 1.6m	N/A N/A	Yes Yes
	North Ground Floor: 0.9m Upper Level: 1.5m	Ground Floor: 3.0m-6.8m First Floor: 4.8m-6.3m	N/A N/A	Yes Yes
Landscaped area	35% (4m dimension)	32.1% (130.8m <sup>2</sup> )	8.3%	<b>No</b>

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	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
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.6 Front building lines	No	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

### Detailed Assessment

#### **D16.5 Landscaped Area for Newly Created Individual Allotments**

##### Description of non-compliance

This control requires dwellings on lots 9m to 14m wide to have a minimum 35% of the site as landscaped area with minimum dimensions of 4m. The proposal provides 32.1% (130.8m<sup>2</sup>) landscaped area and does not comply with the control.

It is noted that when including areas less than 4.0m dimension, the proposal provides 41.8% (170m<sup>2</sup>) landscaped area which is in excess of the control.

It is also noted that the site is burdened by an electricity substation occupying approximately 29m<sup>2</sup>. As such, this is site area that could otherwise be utilised and landscaped area if not for the substation.

##### Merit Consideration

With regards to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

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

##### Comment

The site is currently a vacant yet to be created lot that is largely cleared of vegetation. As such, the proposed development will not impact on the conservation of significant natural features or biodiversity.

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

##### Comment

The proposed development maximises landscaping where possible despite the site constraints associated with the electricity substation and dual frontage. The proposed development is considered to be consistent with the landscape character of surrounding development and contributes to the sense of place.

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

Comment

The proposal has been reviewed by Council's Landscape Officer deeming it acceptable subject to the recommended conditions.

- *The area of site disturbance is minimised.*

Comment

The proposal requires minimal excavation which is necessary to facilitate the works and level the site.

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

Comment

The proposal has been reviewed by Council's Development Engineer and Water Management Officer with regards to stormwater deeming it acceptable subject to the recommended conditions.

- *Landscaped areas should be predominately areas of deep soil.*

Comment

All areas included in the landscape area calculation are of deep soil.

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

Comment

The existing trees at the rear of the site along with the street trees are to be retained subject to the recommended conditions. This ensures new development is blended into the streetscape and neighbourhood.

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

Comment

The proposed dwelling provides sufficient spatial separation to ensure a reasonable level of privacy is provided to adjoining properties.

Having regard to the above assessment, it is concluded the proposed development is consistent with the relevant objectives of P21 DCP 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.

## **D16.6 Front building lines**

### Description of non-compliance

This control requires setbacks from the front building line to be 4.0m from the garage and 3.0m from the dwelling. For secondary frontages, the dwelling and the garage must be setback 2.0m from the secondary front boundary.

The proposed development has a dual frontage with the primary frontage to Kite Street to the south and secondary frontage to Fern Creek Road to the west. The proposed development complies with the primary front setback with the garage setback 5.8m and the dwelling 6.4m. To the west secondary frontage, the subfloor storage has a nil setback which does not comply. The dwelling is setback 2.6m-4.7m which complies.

### Merit Consideration

With regards to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

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

#### Comment

The proposal consists of a two storey residential dwelling which aligns with the desired future character of the Locality.

- *The area of site disturbance is minimised and soft surface is maximised.*

#### Comment

Due to the steep topography of the site, excavation is required to facilitate the works and level the ground. The proposal ensures site disturbance is minimised and soft surface is maximised.

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

#### Comment

The front building line non-compliance is attributed to the subfloor storage area which is located below the garage to support the suspended driveway. The structure will not be readily visible from the street and will have the appearance of retaining walls. As such, the front setback non-compliance does not generate excessive bulk and scale.

- *To achieve a consistent built form alignment in the streetscape, which is spacious and attractive, enhanced by tree planting within the front setback.*

#### Comment

Due to the subdivision pattern and dual lot frontage, the subject site is somewhat irregular in the context of the streetscape. However, the proposed development provides suitable side setbacks and an appropriate quantum of landscaped area that is considered to complement the streetscape.

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

#### Comment

The proposal does not impact on views and vistas to and/or from public/private places.

- *Vegetation and natural features of the site are retained and enhanced within the site design to screen the visual impact of the built form.*



#### Comment

Council's Landscape Officer has reviewed the proposal deeming it acceptable subject to the retention of existing street trees and the addition of a garden bed zone to the front boundary. This enables landscaping to visually soften and reduce the impact of the built form.

- *Encourage tandem carparking opportunities on narrow lots and minimise the visual prominence of parking structures in the streetscape.*

#### Comment

The subject site is not a narrow lot and the proposed double garage provides compliant front setbacks.

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

#### Comment

The proposed dwelling provides a reasonable level of privacy and amenity through appropriate window design and placement incorporating a range of glazing and louvres to assist with screening. Additionally, the proposal ensures a reasonable level of solar access is provided within the development site and future dwellings.

Having regard to the above assessment, it is concluded the proposed development is consistent with the relevant objectives of P21 DCP 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.

### **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.

### **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 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

conditions contained within the recommendation.

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

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

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

## **RECOMMENDATION**

### **DEFERRED COMMENCEMENT APPROVAL**

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2023/0154 for Construction of a dwelling house on Lot 9 on land at Lot C DP 367229,6 Orchard Street, WARRIEWOOD, subject to the conditions printed below:

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

## **DEFERRED COMMENCEMENT CONDITIONS**

### **1. Deferred Commencement - Evidence of Lot Registration**

The subdivision, approved under N0013/15 as modified, is to be registered with Land Titles (NSW Lands and Property Information Office). Evidence that Lot 9 has been registered with Land Titles is required to be provided to Council.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

## **DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

### **2. Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and

documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA04 P8 - Site Plan	14.06.23	PTI Architecture
DA06 P9 - Ground Floor	14.06.23	PTI Architecture
DA07 P7 - First Floor Plan	15.09.30	PTI Architecture
DA08 P7 - Roof Plan	15.09.30	PTI Architecture
DA09 P8 - Section A	11.05.23	PTI Architecture
DA10 P8 - Section B	14.06.23	PTI Architecture
DA11 P7 - South & West Elevations	15.09.30	PTI Architecture
DA12 P7 - North & East Elevations	15.09.30	PTI Architecture
DA15 P7 - External Finishes	15.09.30	PTI Architecture

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C22065-SW100 Rev D - Stormwater Layout	6 October 2022	CAM Consulting
C22065-SW101 Rev D - Soil Management Plan	6 October 2022	CAM Consulting
C22065-C01 Rev B - External Works Layout, Sections and Details	5 October 2022	CAM Consulting

<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>
BASIX Certificate No. 1342283S	5 October 2022	Outsource Idea (ss)
Site Classification	18 November 2022	White Geotechnical Group
Arboricultural Impact Assessment Report	24 October 2014	tree iQ

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LPDA 22-324/2 Issue C - Landscape Plan	4 October 2022	Conzept Landscape Architects

<b>Waste Management Plan</b>		
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Drawing No/Title.	Dated	Prepared By
DA13 P8 - Waste Management Plan	14.06.23	PTI Architecture
Waste Management Plan	-	-

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

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

### 3. 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	Ausgrid Referral Response - Overhead Powerlines	Undated
Ausgrid	Ausgrid Referral Response - Underground Cables	Undated

(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.

### 4. 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 Certifier 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 Certifier 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 Certifier 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.

## 5. **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 an 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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

### 6. Security Bond

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

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier 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. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

### 8. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing drainage system and easement through Lot 10 DP 270938.

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

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

### 9. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the Geotechnical Report prepared by White Geotechnical Group dated 18th November 2022 are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 10. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas)



- and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

11. **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 Certifier 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.

12. **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.

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

Reason: To ensure suitable vehicular access to private property.

13. **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 Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

14. **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 Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

15. **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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

16. **External Finishes to Roof**

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

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

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

17. **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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

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

### 19. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by either existing tree protection fencing or otherwise (#) in accordance with Section 4 of AS4970-2009 Protection of trees on development sites. (#) As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

### 20. Tree and Vegetation Protection

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

- i) all trees within the site, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project 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/Project Arborist to the Principal Certifier,
- 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 AS4970-2009 Protection

of trees on development sites,

ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

21. **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.

22. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

23. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

24. **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 Certifier.

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

25. **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.

26. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

27. **Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To maintain the existing profile of the nature strip/road reserve.

28. **Vehicle Crossings**

The Applicant is to construct a vehicle crossing. The vehicle crossing shall be a minimum of 3 metres and a maximum of 5 metres in width in accordance with Northern Beaches Council Drawing No A4-3330/ [3] and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Certifier.

Reason: To facilitate suitable vehicular access to private property.

29. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

30. **Imported Fill**

Prior to the importation of any landfill material onto the site, a validation report prepared in accordance with the Department of Planning and Environment guidelines, the validation report shall state in an end statement that the fill material is suitable for the proposed use on the land.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the fill being imported to the site.

Reason: To ensure that imported fill is of an acceptable standard.

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

31. **Landscape Completion**

Landscaping shall be completed in accordance with the approved Landscape Plans, inclusive of the following requirements:

- a) landscape works are to be contained within the legal property boundaries,
- b) a continuous garden bed zone at least 1.0 metre wide shall be provided along the front boundary containing shrub planting to achieve at least 1.0 metres in height at maturity,
- c) all trees shall be planted at minimum 75 litre size, located a minimum of 3-4 metres or more from existing and proposed dwellings, and located a minimum area of at least 1.5 metres from adjoining common residential side boundaries,
- d) fencing is not permitted forward of the front building line. Boundaries between public and private land shall be delineated by vegetation, such as low hedges, garden beds or the like.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the Landscape Plan and inclusive of any conditions.

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

32. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

33. **Stormwater Disposal**

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

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

34. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

35. **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 Certifier prior to the issue of an Occupation Certificate.

Reason: Public and Private Safety

36. **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 Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

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

37. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

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

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

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

Reason: Protection of the receiving environment.

39. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be

maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

**Signed**



**Olivia Ramage, Planner**

The application is determined on 21/06/2023, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**