

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0395
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 1 DP 202857, 7 Trentwood Park AVALON BEACH NSW 2107
Proposed Development:	Construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	James Brian Dargaville Margot Christina Dargaville
Applicant:	Gartner Trovato Architects
Application lodged:	17/04/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	06/05/2019 to 20/05/2019
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval
Estimated Cost of Works:	\$ 959,305.00

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 - 1.9A Suspension of covenants, agreements and instruments
Pittwater 21 Development Control Plan - B8.2 Construction and Demolition - Erosion and Sediment Management
Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation

SITE DESCRIPTION

Property Description:	Lot 1 DP 202857 , 7 Trentwood Park AVALON BEACH NSW 2107
Detailed Site Description:	<p>The Assessing Officer inspected the subject site on 17 July 2019.</p> <p>The subject site consists of one (1) battleaxe allotment located on the eastern side of Trentwood Park, Avalon Beach.</p> <p>The site is irregular in shape with a frontage of 12.79m along the cul-de-sac of Trentwood Park and a surveyed area of 5,417m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a detached dwelling house and garage.</p> <p>The site is heavily vegetated with a slope of approximately 39m from the west (rear) to east (front).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses. To the south of the site is heritage-listed Ruskin Rowe Heritage Conservation Area.</p>

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 recent history:

- N0259/14 for Subdivision of site into three (3) lots was withdrawn on 19 March 2015 by the Applicant.
- N0530/15 for Subdivision of one lot into three, demolition of existing detached garage and extension of existing access road to provide access to new lots was refused on 10 January 2017 by Council. The refusal was appealed through the NSW Land and Environment Court, where the appeal was upheld on 15 November 2017.
- Pre-lodgement Meeting PLM2018/0179 was held on 23 August 2018 for Subdivision of one lot into 4.
- MOD2019/0169 for Modification of Development Consent N0530/15 granted for subdivision of one lot into three demolition of existing detached garage and extension of existing access road to provide access to new lots was approved on 26 July 2019 under staff delegation.
- DA2019/0393 for Subdivision of one lot into two is currently under assessment.
- DA2019/0394 for Construction of a dwelling house is currently under assessment.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Construction of a dwelling house with garage;
- Construction of a driveway with turning bay; and
- Landscaping works.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan 2014 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, allow Council to request additional information. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from</p>

Section 4.15 Matters for Consideration'	Comments
	the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan 2014 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection. A Bush Fire Report was submitted with the application (prepared by Australian Bushfire Protection Planners, dated 11 February). The report recommended an alternative solution to comply with Planning for Bush Fire Protection. The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval. The recommendations of the Bush Fire Report have been included as part of the recommended conditions of consent.

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 3 submission/s from:

Name:	Address:
Mr Darren Ross Jones	2/150 Avalon Parade AVALON BEACH NSW 2107
Ms Susan Mary Ralston	43 B Chisholm Avenue AVALON BEACH NSW 2107
Ms Elizabeth Sodahl Inge Sodahl	43 C Chisholm Avenue AVALON BEACH NSW 2107

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

- Excessive bulk and scale.
- The building footprint exceeds that specified by the court approval of the subdivision.
- Need a section to establish the overall building height.
- Steeply sloping site.
- Impacts on privacy.
- Orientation of the dwelling is inconsistent with street pattern.
- The driveway will result in headlights shining onto neighbouring properties.
- Tree removal is excessive and inconsistent with that specified by the court approval of the subdivision.
- Fencing will reduce light to lower levels of adjoining land.

The matters raised within the submissions are addressed as follows:

- Bulk and Scale / Building Footprint / Height
Comment:
The proposed development is compliant with all relevant built form controls, demonstrating that the proposed dwelling is in accordance with anticipated development in this locality and is of acceptable bulk and scale. The proposed new dwelling is generally consistent with the size and location of the indicative building footprint specified under N0530/15, which granted consent for subdivision of 7 Trentwood Avenue. The building footprint proposed under this application overrides that under N0530/15 (via Clause 1.9A of the PLEP 2014), as it is acceptable in relation to impacts on the site due to its compliance with controls. A condition of consent has been applied accordingly requiring the restriction on title be updated. A section through the proposed development was submitted with this application, demonstrating a compliant building height of 7.8m.
- Site Slope
Comment:
The proposed development is responsive to the slope of the subject site in that it steps down with the topography. The proposal is accompanied by a geotechnical investigation, demonstrating the site is suitable for the proposed works.
- Dwelling Orientation, Driveway and Privacy
Comment:
The subject site is not visible from any street frontage. As such, the orientation of the dwelling does not need to match others in the street. At the point the driveway is orientated to the objecting lot, the offending car will be a minimum of 36m from the objecting lot, thus not resulting in headlights in close proximity. Additionally, the proposal is for a single dwelling house only, so will not result in heavy traffic using the driveway. The proposed development is

compliant with all requirements of Clause C1.3 Visual Privacy of the P21 DCP. The proposed development is adequately set back from all property boundaries and is suitably vegetated in order to provide adequate visual privacy to adjoining neighbours.

- Tree Removal

Comment:

The proposed development does not require removal of any further trees than that approved under N0530/15 for subdivision of 7 Trentwood Avenue. The application has been reviewed by Council's Landscape Officer and Bushland & Biodiversity Officer, who raise no objections to the proposal, subject to those conditions of consent.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal seeks the construction of a new dwelling, attached garage and associated landscaping upon Lot 3, 7 Trentwood Park Avalon.</p> <p>Consent for subdivision was granted under Development Application No. N0530/15, including the removal of three (3) existing trees on Lot 3, identified in the Arboricultural Impact Assessment prepared by Tree Wise Men, dated August 2017 as trees T2, T80, and T105A.</p> <p>An updated Arboricultural Impact Assessment has been prepared by Urban Forestry Australia, dated 5 March 2019, identifying no additional existing trees are proposed for removal. The updated Arboricultural Impact Assessment provides specific recommendations for construction in the vicinity of existing trees T103, T104, T110, T130, and group of Turpentine T120, T121, T123, and T124.</p> <p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing trees and vegetation, and the completion of landscaping.</p> <p>The relevant conditions of consent for N0530/15 continue to apply in respect to the protection of landscape features and trees, including B7, B9, B10, B17, C13, D8, D18 and F15.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater21 DCP Controls:</p> <p>B4.22 Existing Trees and Bushland Vegetation C1.1 Landscaping D1.4 Scenic protection - General D1.14 Landscaped Area - Environmentally Sensitive Land</p> <p>A Arboricultural Impact Assessment report is provided in accordance with DA Lodgement Requirements for the Subdivision approval with additional arboricultural advice provided for this development application. Conditions of consent shall be imposed to protect existing</p>

Internal Referral Body	Comments
	<p>trees nominated for retention in accordance with the Arboricultural Impact Assessment approved for subdivision, and in consideration of the updated Arboricultural Impact Assessment.</p> <p>A Landscape Plan is provided that provides insufficient information as required to satisfy the DA Lodgement Requirements. Amended landscape design information shall be provided and conditions of consent shall be imposed on landscape works.</p>
NECC (Bushland and Biodiversity)	<p>This application was assessed against Pittwater LEP Clause 7.6 and Pittwater DCP B4.2 Flora and fauna conservation category 1 and wildlife corridor, and B4.4 Flora and fauna habitat enhancement category 2 and wildlife corridor. The site is also mapped as Pittwater Spotted Gum EEC in the SMCMA V3 mapping (OEH 2016). The site is also identified as bushfire prone land.</p> <p>Any development application must consider proposal options which are compliant with applicable Pittwater LEP and DCP controls, specifically:</p> <ul style="list-style-type: none"> • The development is designed, sited and will be managed to avoid any significant adverse environmental impact. • <i>Development shall retain and enhance habitat for threatened species, endangered populations, endangered ecological communities and other locally native species.</i> • <i>Development shall provide wildlife corridors via creation, restoration, and / or regeneration of habitat.</i> • <i>Development shall result in no significant onsite loss of canopy cover and no net loss in native canopy trees.</i> • <i>Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of existing bushland and should not include environmental weeds. Development shall provide an adequate buffer to wildlife corridors.</i> • <i>Caretakers of domestic animals shall prevent them from entering wildlife habitat areas.</i> • <i>Fencing, where permitted, shall be passable by native wildlife.</i> <p>The site is known as Lot 3 which was the subject of a previous court approval for a 3 lot subdivision (N0530/15). As part of the subdivision approval, three trees were approved for removal being, T2 <i>Jacaranda mimosifolia</i>, T80 <i>Angophora costata</i>, and T105 <i>Syncarpia glomulifera</i>.</p> <p>The proposal is for a two-storey dwelling house and attached studio and garage, approximately in alignment with the approved building envelope (marginally larger footprint), and associated landscaping of the site.</p> <p>The updated Arboricultural Impact Assessment (Urban Forestry</p>

Internal Referral Body	Comments
	<p>Australia, 05/03/2019) "<i>addresses building design changes that may have altered the initial impact assessment by Tree Wise Men [for the original court approval].</i>" This report states, "<i>No additional trees are proposed to be removed with this current application.</i>". The retention and protection of native trees is supported by Biodiversity. The report provides individual tree specific protection measures and hand digging to ensure trees to be retained are protected throughout construction. General tree protection measures and pruning recommendations are within Part 5.3 and Appendix C of the original Arboricultural Impact Assessment (Tree Wise Men July 2017).</p> <p>The updated Ecological Assessment (Cumberland Ecology, 04/03/2019) states, "<i>Due to the extremely similar nature of impacts for the plan approved by the LEC and the proposed plan, the proposed application is not considered to increase impacts on biodiversity values within Lot 3. Within the proposed Lot 3 boundaries, impacts to biodiversity are consistent with the former Flora and Fauna Assessment produced by Cumberland Ecology in 2017.</i>"</p> <p>Council's Natural Environment - Biodiversity section supports the application, subject to conditions. There are relevant subdivision conditions of consent for N0530/15 that continue to apply to this dwelling development, which have been added to the conditions. These include B4, B5, B6, B7, B9, B10, B14, B17, B22, C9, C13, D8, D10, D11, D18, D19, D23, D14, F13, F14, F15, and F19. As per B22 of the subdivision consent, any replacement plantings is to be at a ratio of 3:1 for every tree removed. As such 6 replacement canopy trees will be required.</p>
NECC (Development Engineering)	<p>The proposal to construct a dwelling on a proposed lot of a recently approved subdivision has been assessed and the following comments apply.</p> <p>Stormwater The submitted hydraulic plan has not included the calculation of any bypass flows that are not connected into the proposed on-site stormwater detention (OSD) system. As a result it is anticipated that the flows in the 1 in 100 year storm event are likely to exceed the allowable discharge of 30 litres per second to the kerb for the entire site. As such it is considered that the applicant's Hydraulic Engineer must submit a revised stormwater design to connect to Council's piped drainage system in Trentwood Park.</p> <p>Geotechnical Report The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineers cannot support the application due to insufficient information to address clause B5 of Pittwater 21 DCP 2014.</p>

Internal Referral Body	Comments
	<p>Additional Information received 28/06/2019</p> <p>The amended stormwater plan submitted for the proposed subdivision of proposed lot 2 into 2 lots indicates a connection of drainage from the site to the existing piped drainage system in Trentwood Park. The submitted drainage plan for this application relies upon this connection once the subdivision has been created and as such is considered acceptable.</p> <p>Provided that this approval will be deferred subject to the creation of the lot, no objection to approval, subject to conditions as recommended.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed development is not considered to increase flood risk. No flood related development controls applied.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Rural Fire Service – local branch (s79BA EPAA)	The proposal was referred to the NSW Rural Fire Service. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 980180S dated 18 December 2018, which is outdated). The BASIX Certificate indicates that the development will achieve the following:

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

A condition has been included in the recommendation of this report requiring an updated BASIX Certificate be provided, demonstrating compliance with BASIX requirements.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The site is classified as being within the littoral rainforests area, according to the State Environmental Planning Policy (Coastal Management) 2018. Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
 - (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*

- (c) *the carrying out of any of the following:*
 (i) *earthworks (including the depositing of material on land),*
 (ii) *constructing a levee,*
 (iii) *draining the land,*
 (iv) *environmental protection works,*
 (d) *any other development.*

Comment:

The proposed development falls under (d), being construction of a dwelling house. The proposed development is in accordance with Clause 10 above.

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

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

Comment:

The proposed development is satisfactorily designed and site so as not to increase risk of coastal hazards on the subject site or adjacent sites.

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:	8.5m	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
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

The proposed development involves construction of a dwelling that is not wholly consistent with the building footprint approved under Development Consent N0530/15. Clause 1.9A of the PLEP 2014 provides that any agreement, covenant or other similar instrument that restricts the carrying out of that development (such as the approved building footprint) does not apply to the extent necessary to serve the purpose of enabling development on land in any zone to be carried out in accordance with a consent granted under the Act. As such, the proposed development is acceptable. A condition of consent has been applied accordingly requiring the restriction on title be updated.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	7.3m	N/A	Yes
Rear building line	6.5m	12.8m	N/A	Yes
Side building line	2.5m (West)	7.2m	N/A	Yes
	1m (East)	4.4m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60% (833sqm)	77.7% (1,064sqm)	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	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
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.22 Preservation of Trees and Bushland Vegetation	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
B6.2 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	No	Yes
B8.3 Construction and Demolition - Waste Minimisation	No	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B8.2 Construction and Demolition - Erosion and Sediment Management

The proposal does not include a sediment and erosion plan for action during works. A condition of consent has been applied accordingly.

B8.3 Construction and Demolition - Waste Minimisation

The proposal does not include a waste management plan for action during works. A condition of

consent has been applied accordingly.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$9,593 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$959,305.

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

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a Five (5) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2019/0395 for Construction of a dwelling house on land at Lot 1 DP 202857,7 Trentwood Park, AVALON BEACH, 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. Registration of Lots

The lots approved under Development Consent N0530/15 and as modified by MOD2019/0169 are to be registered with NSW Land Registry Services. Evidence that the lots have been registered with NSW Land Registry Services is to be provided to Council in order to activate the consent.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. 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 (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-01 Site Plan & Site Analysis	12 March 2019	Gartner Trovato Architects
DA-02 Floor Plans	12 March 2019	Gartner Trovato Architects
DA-03 Elevations	12 March 2019	Gartner Trovato Architects
DA-04 Sections	12 March 2019	Gartner Trovato Architects
DA-05 External Finishes / Photomontage	12 March 2019	Gartner Trovato Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
SW1 DA-A Lot 3 Stormwater Management Plan	24 June 2019	Barrenjoey Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation	15 September 2017	White Geotechnical Group
Letter - Geotechnical Investigation	31 January 2019	White Geotechnical Group
Arboricultural Impact Assessment	5 March 2019	Urban Forestry Australia
Bushfire Protection Assessment	11 February 2019	Australian Bushfire Protection Planners
Updated Ecological Assessment	4 March 2019	Cumberland Ecology

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-06 Landscape Plan	12 March 2019	Gartner Trovato Architects

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house without prior consent.

According to the Dictionary of the Pittwater Local Environmental Plan 2014, *dwelling house means a building containing only one dwelling*.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the approval of a separate future application.

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

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 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

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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,593.05 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 \$959,305.00.

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

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

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

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

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

7. 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 to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group report number J1457A dated 31 January 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **On-site Stormwater Detention Compliance**

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 Clause B5.7 and the concept drawing by Barrenjoey Consulting Engineers Pty Ltd, drawing number 171001L3 SW1 DA-A dated 24.06.2019. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

10. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

11. **Tree Protection Plan**

A Tree protection Plan shall be issued to the Certifying Authority documenting the extent and alignment of tree protection fencing to the following existing trees required to be retained and protected during all construction stages:

- within Lot 3: T85, T96 to T99, T101 to T104, T106 to T110, T113 to T128, T130, and T131,
- within adjoining property: T83, T84, T92 to T95, T100 and T132.

Reason: to protection existing trees not impacted by the development.

12. **Amended Landscape Plan**

The Landscape Plan DA-06 for Lot 3, prepared by Gartner Trovato Architects shall be amended to include detail information and design provisions to soften the built form.

A Landscape Plan in accordance with the DA Lodgement Requirements is to be issued to the Certifying Authority documenting the following:

- i) existing trees on-site to be retained in accordance with the Arboricultural Impact Assessment and Updated Arboricultural Impact Assessment, including identification,
- ii) the proposed transplanting of T111 (Cabbage Tree Palm) shall include details of trenching, rootball preparation, subsurface anchors and a maintenance schedule to ensure establishment,
- iii) *Pennisetum alopecuroides* and *Ophiopogon jaburan* shall be deleted from the plans and replaced with a variety of understorey species - no mono-culture plantings. At least 15 species

must be chosen from the Coastal Enriched Sandstone Moist Forest community profile (WSF02, OEH 2016), or any local native species already recorded onsite (Table 6.1 within the Flora and Fauna Assessment by Cumberland Ecology October 2017). At least 3 plantings per square metre.

iv) Provision of at least 6 local native canopy tree plantings to replace trees to be removed.

These must be species which reach a minimum height of 8.5m at maturity and be planted outside of calculated TPZ of trees to be retained and at least 200mm from any proposed structure. At least 4 different species must be planted and species must be chosen from the following list, *Angophora costata*, *Syncarpia glomulifera*, *Corymbia gummifera*, *Allocasuarina littoralis*, *Ceratopetalum gummiferum*, *Corymbia maculata*, *Eucalyptus punctata*, *Glochidion ferdinandi*.

v) screen shrub planting to attain a mature height of 3 metres shall be planted along the northern boundary to 43C Chisholm Avenue, planted no more than 1.5m metres apart, and planted at a minimum container size of 300mm,

vi) screen shrub planting to attain a mature height of 3 metres shall be planted along the southern boundary to 43D Chisholm Avenue, planted no more than 1.5m metres apart, and planted at a minimum container size of 300mm,

vii) screen shrub planting to attain a mature height of 3 metres shall be planted along the eastern and western boundaries as indicated on the plans, planted no more than 1.5m metres apart, and planted at a minimum container size of 300mm,

viii) all other soft landscape areas are to be planted with a mix of tall native grasses and groundcovers as indicated on the plans,

ix) an updated planting schedule with plant species selection, quantities and container sizes.

The amended Landscape Plan is to be certified by a qualified landscape architect, arborist or ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity and ensure appropriate landscape treatment to soften the built form.

13. **Preparation of a Construction Environment Management Plan (CEMP)**

A detailed construction environment management plan for the site is to be prepared by the Applicant prior to the commencement of any works on site. The construction management plan is to be consistent with the approved Tree Protection Plan, Flora and Fauna Report and Arborist Report and is to include detailed information and specifications concerning the following:

- Proposed access for tree pruning and removal works and methods for removal of tree waste;
- Proposed access methods for the delivery and storage of materials and storage and removal of waste materials;
- Proposed storage areas for waste and construction materials;
- Quantity of material to be transported
- Proposed truck movements per day
- Proposed hours of operation
- Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the former Pittwater Council Local Government Area
- Location of on/off site parking for construction workers during the construction period.

Reason: Protection of native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

14. **Preparation of Erosion and Sedimentation Control**

An Erosion and Sediment Control Plan is to be prepared in accordance with Landcom's Managing Urban Stormwater: Soil and Construction Manual (2004) by a suitably qualified

engineer and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect natural features and habitats in accordance with relevant Natural Environment LEP/DCP controls

15. **Compliance with Arborist's Recommendations – Pre-Construction**

All pre-construction tree protection measures specified in the Updated Arboricultural Impact Assessment (Urban Forestry Australia, 05/03/2019), and Part 5.3 and Appendix C of the original Arboricultural Impact Assessment (Tree Wise Men July 2017), and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with pre-construction measures is to be certified by the project arborist and details submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

16. **Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to undertake direct supervision to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that conditions relating to the recommendations within the Flora and Fauna Assessment by Cumberland Ecology October 2017, and as amended by the Updated Ecological Assessment (Cumberland Ecology, 04/03/2019) are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented.

The Project Ecologist must have one of the following memberships/accreditation

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW *Biodiversity Conservation Act 2016*

Reason: To ensure bushland management.

17. **Preparation of a Tree Transplanting Methodology**

A suitably experienced and minimum AQF 5 level Arborist is to prepare a tree transplanting methodology/report in relation to the relocation of two Cabbage Tree Palms T105 and T111. All recommendations within the report must be followed throughout transplanting works. The translocation must occur outside of the Tree Protection Zones of existing trees to be retained and protected.

This strategy is to address maintenance issues such as irrigation, soil testing, weeding, plant staking, fertilising, pest and disease control, remedial pruning and the like. Further, provision is to be made for the contractor to visit the site on a 3 monthly basis from the date of the relocation. After the inspection, the contractor is to issue a report to the project manager certifying that the palm is healthy and performing to expectation.

A copy of the Tree Transplanting Methodology report is to be forwarded to the Certifying Authority prior to issue of Construction Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

18. **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.

19. **Updated BASIX Certificate**

Prior to the issue of the Construction Certificate, an updated BASIX Certificate is to be provided to the satisfaction of the Certifying Authority. The updated BASIX Certificate is to have an issue date of no more than 3 months before the date on which it is issued to the Certifying Authority.

Reason: Regulatory requirement.

20. **Waste Management Plan**

A Waste Management Plan in accordance with the Northern Beaches Waste Management Guidelines is to be prepared. The plan is to detail the reuse, recycling and disposal methods for all demolition and construction waste on site. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate waste management during works.

21. **Restriction on Use of Land - Building Footprint**

The Restriction on Use of Land and accompanying Section 88B instrument burdening Lot 1 are to be amended to restrict building on Lot 1 to the building area shown on the approved plans under DA2019/0395. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure consistency with the approved plans.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures and construction works in the vicinity of all existing trees identified within this consent for retention and protection, with the following works to be reviewed, inspected and certified by the Project Arborist, including as scheduled in the Arboricultural Impact Assessment prepared by Tree Wise Men, section 5.1 Arborist Involvement, and including the tree protection measures as listed in the updated Arboricultural Impact Assessment prepared by Urban Forestry, under the section 'specific recommendation' shall be undertaken for existing trees T103, T014, T106, T110, T120 to T124, and T130.

a) All construction activity shall be in accordance with the following general protection guidelines:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,

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 unaltered under the tree protection zone of trees to be retained, unless authorised by a 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 Arborist. Details including photographic evidence of any works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,

b) Specifically the following works shall be undertaken:

- i) the Project Arborist shall locate and approve all required footings and/or piers within the tree protection zone,
- ii) the Project Arborist shall monitor any excavation, machine trenching or compacted fill placed within the tree protection zone of all trees to be retained,
- iii) if excavation is required it should be carried out under the supervision of the Project Arborist to identify roots critical to tree stability,
- iv) where the Project Arborist identifies roots to be pruned within or at the outer edge of the TPZ, they should be pruned with a final cut to undamaged wood, as directed by the Project Arborist,
- v) pruning cuts should be made with sharp tools such as secateurs, pruners, handsaws or chainsaws, as directed by the Project Arborist,
- vi) pruning wounds shall be dressed as directed by the Project Arborist,

c) Activities listed below are excluded from the tree protection zone, unless directed and supervised by the Project Arborist:

- i) machine excavation including trenching,
- ii) excavation for silt fencing,
- iii) construction material storage,
- iv) dumping of waste,
- v) placement of fill,
- vi) soil level changes,
- vii) temporary or permanent installation of utilities and signs,
- viii) physical damage to the tree.

Certification reports and photographic documentation of development works shall be recorded and issued to the Certifying Authority, including as listed in the Arboricultural Impact Assessment prepared by Tree Wise Men, section 5.1.3.

Reason: to ensure the protection of the existing landscape amenity.

23. **Priority Weeds Demarcated**

Prior to any vegetation clearance, all priority weeds in the canopy and shrub layers are to be demarcated in order for these to be disposed of separately from native material. Weeds listed in Greater Sydney Regional Strategic Weed Management Plan 2017 - 2022 must be removed and managed continuously.

Reason: To reduce the risk of site works contributing to spread of Priority weeds, in accordance with relevant Natural Environment LEP/DCP controls.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

25. **Tree and Vegetation Protection - General**

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

- i) all trees and vegetation within the site nominated on the Arboricultural Impact Assessment, prepared by Tree Wise Men, including T85, T96 to T99, T101 to T104, T106 to T110, T113 to T128, T130, and T131, and excluding exempt trees and palms under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties, including T83, T84, T92 to T95, T100 and T132,
- iii) tree protection measures as listed in the updated Arboricultural Impact Assessment prepared by Urban Forestry, under the section 'specific recommendation' shall be undertaken for existing trees T103, T014, T106, T110, T120 to T124, and T130.

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,
- 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 must be replaced with a locally native canopy tree.

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

26. **Implementation of the Tree Transplanting Methodology**

A suitably experienced and minimum AQF 5 level Arborist is to directly supervise tree transplanting in accordance with the approved Tree Transplanting Methodology/report in relation

to the relocation of two Cabbage Tree Palms T105 and T111. All recommendations within the report must be followed throughout transplanting works. The translocation must occur outside of the Tree Protection Zones of existing trees to be retained and protected. The Project Arborist is to compile details of compliance including photographic evidence and submit to the Certifying Authority throughout works.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

27. **No Material Storage within 5m/Calculated Tree Protection Zone (TPZ)**

No storage of building materials or building waste, excavated fill or topsoil storage is to occur within 5m or the notional TPZ of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

Reason: To protect and retain trees proposed for retention.

28. **Implementation of Amended Landscape Plan**

Landscaping is to be implemented in accordance with the Amended Landscape Plans and these conditions of consent. The new landscaping is to be certified in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of the Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

29. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction, as specified in the approved Flora and Fauna Assessment by Cumberland Ecology October 2017, Updated Ecological Assessment (Cumberland Ecology, 04/03/2019) and these conditions of consent. Specifically the Project Ecologist must undertake pre-clearance surveys and direct supervision of all tree removal works. Compliance with these measures is to be certified by the project ecologist in writing including photographic evidence to the Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

30. **Implementation of Erosion and Sediment Control Plan**

The Erosion and Sediment Control Plan is to be fully implemented and measures are to remain in effective operation until all development activities have been completed and the site fully stabilised. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Certifying Authority's satisfaction. Evidence of compliance is to be certified by a suitably qualified engineer and submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect natural features and habitats in accordance with relevant Natural Environment LEP/DCP controls.

31. **Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in Updated Arboricultural Impact Assessment (Urban Forestry Australia, 05/03/2019), and Part 5.3 and Appendix C of the original Arboricultural Impact Assessment (Tree Wise Men July 2017) and these conditions of consent are to be implemented at the appropriate stage of development. The updated Arboricultural Impact Assessment provides specific recommendations for construction in the vicinity of existing trees T103, T104, T110, T130, and group of Turpentine T120, T121, T123, and T124. All hand-digging must be directly supervised by the Project Arborist. Compliance with these measures is to be certified by the project arborist in writing, including photographic evidence, and details submitted to the Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

32. **Signage – No Work / Storage Within Dripline**

The project manager is to erect signs advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.

Reason: To protect and retain trees proposed for retention.

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

33. **Landscape works**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plan.

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

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

34. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

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

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

35. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on

a copy of the approved drainage plan) and hydraulic engineers certification. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

36. **Registration of Encumbrances for On-site Stormwater Detention**

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. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

37. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant 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 NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

39. **Certification of Completion of Tree Transplanting**

A suitably experienced and minimum AQF 5 level Arborist is to directly supervise tree transplanting in accordance with the approved Tree Transplanting Methodology/report in relation to the relocation of two Cabbage Tree Palms T105 and T111. All recommendations within the report must be followed throughout transplanting works. The translocation must occur outside of the Tree Protection Zones of existing trees to be retained and protected. Details of compliance should include information and photographic evidence of irrigation, soil testing, weeding, plant staking, fertilising, pest and disease control, remedial pruning and the like. Further, provision is to be made for the contractor to visit the site on a 3 monthly basis from the date of the relocation. After the inspection, the contractor is to issue a report to the project manager certifying that the palm is healthy and performing to expectation. The Project Arborist is to compile details of compliance including photographic evidence and submit to the Certifying Authority prior to issue of Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

40. **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development, as specified in the approved Flora and Fauna Assessment by Cumberland Ecology (October 2017) and as amended by Updated Ecological Assessment (Cumberland Ecology, 04/03/2019) and these conditions of consent. Removal of exotic weeds is to be certified by Project Ecologist. Satisfactory establishment/initiation of post-construction measures is to be certified by the project ecologist prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

41. **Compliance with Arborist's Recommendations – During and Post-Construction**

All tree protection measures to be implemented, as specified in Updated Arboricultural Impact Assessment (Urban Forestry Australia, 05/03/2019), and Part 5.3 and Appendix C of the original Arboricultural Impact Assessment (Tree Wise Men July 2017), and these conditions of consent are to be implemented at the appropriate stage of development. The updated Arboricultural Impact Assessment provides specific recommendations for construction in the vicinity of existing trees T103, T104, T110, T130, and group of Turpentine T120, T121, T123, and T124. All hand-digging must be directly supervised by the Project Arborist. Satisfactory establishment/initiation of post-construction measures is to be certified by the consulting arborist and details submitted to the Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

42. **Replacement of Canopy Trees**

At least 6 locally native canopy trees are to be planted on site to replace trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with these conditions of consent. Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree. Replacement plantings are to be certified as complete and in accordance with these conditions of consent by a qualified landscape architect, arborist or ecologist, and details submitted to the Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate landscaping in accordance with relevant Natural Environment LEP/DCP controls.

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

43. **Landscape Maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development. A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is removed must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

44. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

45. **Maintenance of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees in accordance with relevant Natural Environment LEP/DCP controls.

46. **Retention of Natural Features**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To ensure the retention of natural features.

47. **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.

48. **Works to Cease if Item Found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

49. **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.

50. **Domestic Animals Exclusion**

For the life of the development, domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times. Cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times.

Reason: Wildlife protection

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

Signed



Claire Ryan, Principal Planner

The application is determined on 07/08/2019, under the delegated authority of:



Rebecca Englund, Manager Development Assessments