

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0639
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<b>Responsible Officer:</b>	Kelsey Wilkes
<b>Land to be developed (Address):</b>	Lot 2 DP 838513, 790 A Barrenjoey Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Construction of a secondary dwelling and associated works
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	John William Ritchie Belinda Rae Ritchie
<b>Applicant:</b>	John William Ritchie

<b>Application Lodged:</b>	16/06/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New second occupancy
<b>Notified:</b>	29/06/2020 to 13/07/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 250,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the following:

- Construction of a 59.95m<sup>2</sup> two storey secondary dwelling and associated decking to be located between the right of way easement and the site's northern side boundary
- Cut and fill to accommodate the secondary dwelling, retaining walls and terracing

### 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 - C1.11 Secondary Dwellings and Rural Worker's Dwellings

Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

Pittwater 21 Development Control Plan - D12.8 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 838513 , 790 A Barrenjoey Road PALM BEACH NSW 2108
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment identified as Lot 2 in DP 838513 and is located on the eastern side of Barrenjoey Road, Palm Beach.</p> <p>The site is irregular in shape with a surveyed area of 1073m<sup>2</sup>. The site does not have a direct boundary frontage to Barrenjoey Road, however a right of way easement provides vehicular and pedestrian access from Barrenjoey Road to the site.</p> <p>The site is located within the E4 Environmental Living zone and is currently vacant. The only development on site includes a number of retaining walls, part of the access driveway and a small site shed.</p> <p>The site falls steeply from north east to south west (rear to front) at an average angle of approximately 20 to 25 degrees. The site is located within hazard are H1.</p> <p>Landscaping on site includes a number of native and non-native tree's, small to medium shrubs and rock outcrops. The site is identified as containing the Pittwater Spotted</p>

Gum EEC.

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by predominantly one and two storey residential dwellings, many of which enjoy views towards the west of the Pittwater Waterway.

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:

#### DA2018/2061

Construction of a dwelling house was approved on 21 May 2019.

#### N0131/06

Construction of a new dwelling and swimming pool was approved on 27 September 2006. An extension to the lapse date of the consent to 27 September 2009 was approved on 6 August 2008 however the consent was never activated and has now lapsed.

### 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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to on-site detention plans.</p> <p><u>Clause 92</u> of the EP&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building</p>

Section 4.15 Matters for Consideration'	Comments
	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) <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 29/06/2020 to 13/07/2020 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.



Internal Referral Body	Comments
	<p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>The development application proposal is for the construction of a secondary dwelling and associated site works including retaining walls and stormwater detention.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 Environmental Living zone, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• C1.11 Secondary Dwelling and Rural Worker's Dwellings</li> <li>• D12 Palm Beach Locality</li> </ul> <p>The site is located in the E4 Environmental Living Zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of existing trees. The proposal is to incorporate the existing trees and rock outcrops into the development works, with the exception of one native Swamp Oak in poor arboricultural condition is required for removal, as recommended in the Arborist Report, and shall be subject to vegetation replacement as nominated in the Landscape Plan.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following controls:</p> <ul style="list-style-type: none"> <li>- NSW Biodiversity Conservation Act 2016</li> <li>- Pittwater LEP Clause 7.6 (Biodiversity Protection)</li> <li>- Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest Endangered Ecological Community)</li> </ul> <p>The subject site is mapped as containing Pittwater Spotted Gum Endangered Ecological Community (EEC) under the Department of Planning, Industry and Environment's (DPIE) 'Native Vegetation of the Sydney Metropolitan Area' mapping. As such, a 'threatened species test of significance' and ecological report (Kingfisher Urban Ecology and Wetlands, June 2020) has been submitted with the DA, in addition to an arboricultural assessment (Complete Arborcare, June 2020) and Landscape Plan. The ecological assessment also includes tests of significance for microbats and Powerful Owl.</p> <p>The submitted Landscape Plan and recommendations of the ecological assessment are supported. It is considered that, subject to implementation of recommended mitigation measures including implementation of the approved Landscape Plan and tree protection conditions applied by Council's Landscape referral body, the proposal complies with the controls.</p>
NECC (Development)	The amended stormwater plan including the provision of on site

Internal Referral Body	Comments
Engineering)	detention and connection to the existing stormwater system is satisfactory. No objection to approval subject to conditions as recommended.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## 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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

## Division 2: Secondary dwellings

### Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

**Note:** The standard instrument defines secondary dwelling as follows:

**"secondary dwelling means a self-contained dwelling that:**

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

Comment:

The proposed use is defined under PLEP 2014 as above.

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	<b>Consistent.</b> The site is located within the E4 Environmental Living Zone and, as such, the proposed use is permissible with consent under PLEP 2014.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	<b>Consistent.</b> The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The land will contain only the principal dwelling and the secondary dwelling.
(3) A consent authority must not consent to development to which this Division applies unless:	(a) There is no maximum floor area that applies to this land under the PLEP 2014.
(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house	(b) The total floor area of the secondary dwelling is no greater than 60m <sup>2</sup> .



on the land under another environmental planning instrument, and	
(b) the total floor area of the secondary dwelling is no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:  (a) site area if:  (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres.  (b) parking if no additional parking is to be provided on the site.	(a)(i) The secondary dwelling is detached from the principal dwelling. (ii) The site is greater than 450 square meters.  (b) No additional parking is proposed as a result of the secondary dwelling.

**Note:** A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

#### Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	<b>Consistent.</b> This application does not propose any subdivision of the existing allotment.

#### Conclusion

The development meets the requirements of SEPP (Affordable Rental Housing) 2009, along with the requirements of the PLEP 2014 and P21DCP. Therefore, the development is supported.

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

A BASIX certificate has been submitted with the application (see Certificate No. 1106175S dated 2 June 2020).

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

Commitment	Required Target	Proposed
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	50

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

## SEPP (Infrastructure) 2007

### Ausgrid

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

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

### Comment:

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

## Pittwater Local Environmental Plan 2014

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	5.5m	5.3m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes

Clause	Compliance with Requirements
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	6.5m	11.9m	N/A	Yes
Side building line	South East - 2.5m	21.1m	N/A	Yes
	North West - 1m	1.9m	N/A	Yes
	South West - Merit	7.9m	N/A	Yes (see discussion under Part D12.6)
Building envelope	South East - 3.5m	Within	N/A	Yes
	North West - 3.5m	Outside envelope	Height of between Nil - 0.575m for a length of 2.5m	No
Landscaped area	60% (643.8m <sup>2</sup> )	62% (669.2m <sup>2</sup> )	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
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Management		
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	No	Yes
C1.12 Waste and Recycling Facilities	No	No
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.2 Scenic protection - General	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **C1.11 Secondary Dwellings and Rural Worker's Dwellings**

##### Description of non-compliance

The control of this clause states *where the secondary dwelling or rural worker's dwelling is separate from the principal dwelling, only one storey will be allowed*. The proposed secondary dwelling is a split level structure which has a two storey appearance due to the slope of the land however does not actually have one storey located above or beneath another storey. As such, a merit assessment is provided to ensure the outcomes of the clause are achieved.

##### Merit consideration

*Limitation of the visual bulk and scale of development. (En, S)*

##### Comment:

The proposal has been designed to comply with the maximum floor area and height of buildings requirements under the PLEP and is therefore consistent with the desired bulk and scale of secondary dwellings. The proposal responds sympathetically to the land by stepping down the site and has been designed with visually modest colours and materials to contribute to the visual minimisation of bulk and

scale.

*Provision of design flexibility for second storey development.*

Comment:

As mentioned, the proposed secondary dwelling is a split storey structure which has a two storey appearance when viewed from the south western elevation. Given that mentioned above however, it is considered design flexibility has been appropriately applied as the proposal responds to the steep topography of the site while also maintaining compliance with LEP development standards.

*Restriction of the footprint of development site. (En)*

Comment:

Notwithstanding the constraints of the site, it is considered the building footprint of the proposal is acceptable due to the level of compliance achieved combined with minimal level excavation and site disturbance.

*Retention of natural vegetation and facilitation planting of additional landscaping. (En)*

Comment:

The proposal has been designed to retain unique features of the site including rock outcrops and native vegetation. A compliant landscaped area is also maintained to provide additional landscaping if necessary. The proposal was referred to Council's Landscape and Biodiversity Officer who raised no objections subject to conditions which will ensure this outcome is achieved.

*Provision of rental accommodation. (S)*

Comment:

The proposal provides for suitable affordable rental accommodation consistent with the requirements of SEPP (Affordable Rental Housing) 2009.

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

## **C1.12 Waste and Recycling Facilities**

A Waste Management Plan has not been provided with the application. A condition has been included within this consent that requires a waste management plan in accordance with Council's waste management guidelines be prepared for the development prior to the issue of a Construction Certificate.

## **D12.6 Side and rear building line**

As the subject site does not have a boundary fronting any street, the front boundary setback control does not apply in this particular circumstance. As such, side and rear boundary controls are applied to the site, which the proposal achieves compliance with. However as an increased setback should generally be provided to any front boundary, the setback of the proposal to the south western boundary measured at 7.9 meters is assessed on merit against the underlying outcomes of the clause.



## Merit Assessment

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

### Comment:

The siting, design, bulk and scale and amenity provided by the proposal is consistent with the outcomes and requirements under the PLEP and P21DCP and is therefore considered to achieve the desired future of the locality.

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

### Comment:

The proposal has been designed to comply with the maximum floor area and height of buildings requirements under the PLEP and is therefore consistent with the desired bulk and scale of secondary dwellings. The proposal responds sympathetically to the land by stepping down the site and has been designed with visually modest colours and materials to contribute to the visual minimisation of bulk and scale.

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

### Comment:

An assessment of the proposal including an inspection of the site and surrounding area has concluded that the proposal demonstrates the equitable preservation of views and vistas to and/or from public/private places. In addition to this, no submissions were received raising concern regarding view impact.

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

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

### Comment:

The proposed secondary dwelling is a split storey structure which has a two storey appearance when viewed from the south western elevation. Given that mentioned above however, it is considered design flexibility has been appropriately applied as the proposal responds to the steep topography of the site while also preserving views available. The proposal has also been well positioned to provide for access which minimises excavation and preserves natural features on site.

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

### Comment:

The proposal provides for a 7.9 meter setback to the south western side boundary. An assessment of this setback has concluded that the proposal provides for a reasonable level of privacy, amenity and solar access within the development side and adjoining residential properties.

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

### Comment:

While the subject site is barely visible from the streetscape, the 7.9 meter setback provided allows for sufficient space to ensure substantial landscaping can be provided within this area. Furthermore, the site provides for a compliant landscaped area and the proposal has been reviewed by Council's Landscape and Biodiversity Officers who raise no concerns subject to conditions.

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

Comment:

It is considered that the setback of the proposal to the south western boundary provides sufficient space for vegetation planting to visually reduce built form. Overall, the proposal retains an appropriate amount of existing vegetation on site. The application has been reviewed by Council's Landscape and Biodiversity Officers who consider the vegetation retained appropriate and have included relevant conditions within this consent to ensure retention of significant vegetation.

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

Comment:

The site does not adjoin a commercial zone. This outcome therefore does not apply.

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

## **D12.8 Building envelope**

### Description of non-compliance

This clause requires structures to be sited within a building envelope measured by planes projected at 45 degrees from a height of 3.5 meters above ground level (existing) at the side boundaries to the maximum building height of 5.5 meters.

The proposed secondary dwelling encroaches outside of this envelope at the north western elevation for heights of between nil and 575mm and for a length of 2.5 meters and therefore fails to comply.

### Merit consideration

With regard 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. (S)*

Comment:

Notwithstanding the non-compliance, the siting, design, bulk and scale and amenity provided by the proposal is consistent with the outcomes and requirements under the PLEP 2014 and P21DCP and is therefore considered to achieve the desired future of the locality.

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

Comment:

While the subject site and its approved and proposed structures will be barely visible from the streetscape, it is considered the building design and scale responds sympathetically to the constraints of the site. The compliant height of the secondary dwelling will ensure that the structure is well below the height of existing tree's within the site. These factors ensure that the quality of the streetscape and

surrounding locality will be retained and enhanced.

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

Comment:

The proposed secondary dwelling has been designed as a split storey structure to minimise excavation and respond sympathetically to the constraints of the site. The design, colours and materials are sympathetic to the surrounding natural environment and the development has been sited to ensure appropriate retention of naturally occurring features on site.

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

Comment:

The proposal has been designed to comply with the maximum floor area and height of buildings requirements under the PLEP and is therefore consistent with the desired bulk and scale of secondary dwellings. The proposal responds sympathetically to the land by stepping down the site and has been designed with visually modest colours and materials to contribute to the visual minimisation of bulk and scale.

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

Comment:

An assessment of the proposal including an inspection of the site and surrounding area has concluded that the proposal demonstrates the equitable preservation of views and vistas to and/or from public/private places. In addition to this, no submissions were received raising concern regarding view impact.

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

Comment:

Notwithstanding the envelope non-compliance, an assessment has concluded that the proposal provides for a reasonable level of privacy, amenity and solar access within the development side and adjoining residential properties. The minor extent of this non-compliance is not considered to result in any reduced impact on amenity.

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

Comment:

The non-compliance does not result in any further reduction to vegetation on site than that of a compliant building envelope. Overall, the proposal retains an appropriate amount of existing vegetation on site. The application has been reviewed by Council's Landscape and Biodiversity Officers who consider the vegetation retained appropriate and have included relevant conditions within this consent to ensure retention of significant vegetation. This will function to screen built form within the site.

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

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$2,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$250,000.

## **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2020/0639 for Construction of a secondary dwelling and associated works on land at Lot 2 DP 838513, 790 A Barrenjoey Road,

PALM BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DWG No. 2 - Survey + Site Analysis Plan	25 May 2020	DL
DWG No. 3 - Site Plan	25 May 2020	DL
DWG No. 4 - Floor Plans	25 May 2020	DL
DWG No. 5 - Elevations	25 May 2020	DL
DWG No. 6 - Elevations	25 May 2020	DL
DWG No. 7 - Section	25 May 2020	DL
DWG No. 8 - Landscaping Plan	25 May 2020	DL
DWG No. 9 - Sediment and Erosion Control Plan	25 May 2020	DL
Colour Schedule	November 2019	DL

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
PSW20045 SW01	13 August 2020	Prime Engineering Consultants Pty Ltd
PSW20045 SW02	13 August 2020	Prime Engineering Consultants Pty Ltd
PSW20045 SW03	13 August 2020	Prime Engineering Consultants Pty Ltd

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Report	April 2020	Prime Engineering Consultants Pty Ltd
Ecology Report	June 2020	Ecological Consultants Australia Pty Ltd
Arboricultural Impact Assessment	8 June 2020	Complete Arborcare
BASIX Certificate no. 1106175S	2 June 2020	David Lamb

#### 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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DWG No. 8 - Landscaping Plan	25 May 2020	DL

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

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

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Response Ausgrid Referral	17 August 2020

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

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

## 3. **Prescribed Conditions**

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

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

- B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2008
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$250,000.00.

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

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

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

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

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

## **6. Security Bond**

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

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

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

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by STS Geotechnics Pty Ltd dated April 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **8. Boundary Identification Survey**

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



The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

**9. Fire Separation - External Walls**

The external walls of the proposed secondary dwelling where less than 900mm from an allotment boundary or less than 1.8m from another building on the same allotment other than an appurtenant Class 10 building or a detached part of the same Class 1 building shall have a FRL 60/60/60. Any openings within these walls are to be protected in accordance with Part 3.7 of the Building Code of Australia –‘Fire Safety’.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety

**10. Laundry Facilities`**

The layout of the laundry area is to be designed to incorporate clothes washing facilities, comprising of at least one washtub and space in the same room for a washing machine in accordance with Part 3.8.3 of the Building Code of Australia –‘Facilities’.

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

Reason: To ensure adequate provision is made for building occupant health and amenity

**11. On-Site Stormwater Detention and Disposal System Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention and disposal system in accordance with Northern Beaches Council’s Pittwater DCP21, and generally in accordance with the concept drainage plans prepared by Prime Engineering Consultants Pty Ltd, drawing number PSW20045, sheet SW01 to SW03, dated 13/08/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Site discharge to connect to the existing inter-allotment easement benefiting the site.
- ii. Details demonstrating that the existing approved stormwater system can accommodate the additional flows or compliance with the Council’s specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- ii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

**12. Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

**13. 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.

**14. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The plan must comply with the Northern Beaches Council Waste Management guidelines. Details demonstrating compliance must be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure that any demolition and construction of waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

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

**15. Tree removal within the site**

This consent approves the removal of the following trees within the property (as recommended in the Arboricultural Impact Assessment):

Species: Allocasuarina (Swamp Oak / She Oak)

Location: as shown in the Arboricultural Impact Assessment (page 17)

Tree Number: T8

Reason: to enable authorised building works.

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

life or property.

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

### 16. 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.

### 17. Tree and vegetation protection

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

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

b) Tree protection shall be undertaken as follows:

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

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment prepared by Complete Arboricare, as listed in the following sections:

- 9 Recommendations / Conclusions, including items 9.1, 9.2, 9.3 and 9.4.

The Certifying Authority must ensure that:

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

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

Reason: tree and vegetation protection.

#### 18. **Conditions of trees**

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

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

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

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

Reason: Protection of trees.

#### 19. **Protection of rock and sites of significance**

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

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

#### 20. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with

the approved ecological report and these conditions of consent. Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal 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.

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

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

**Reason:** To protect the environment from the effects of sedimentation and erosion from development sites.

**22. 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 Certifying Authority.

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

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

**23. Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan Dwg No. 8, issue B.

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 any conditions of consent.

**Reason:** environmental amenity.

**24. Stormwater Disposal**

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

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



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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works.

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

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

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved ecological report and these conditions of consent.

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.

**28. Issuing of occupation certificates**

An Occupation Certificate must be issued for the principal dwelling prior to the issue of an Occupation Certificate for the secondary dwelling.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure the secondary dwelling is established in conjunction with the principal

dwelling.

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

29. **Landscape maintenance**

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

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

Reason: to maintain local environmental amenity.

30. **Compliance with Ecologist's Recommendations – Ongoing**

All ongoing biodiversity-related measures are to be implemented in accordance with the approved ecological report and these conditions of consent.

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

31. **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.

32. **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.

33. **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

Reason: Management of wildlife corridors

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

**Signed**



**Kelsey Wilkes, Planner**

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



**Tony Collier, Acting Development Assessment Manager**