

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0195
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Responsible Officer:	Georgia Quinn
Land to be developed (Address):	Lot 6 DP 12463, 54 Irrubel Road NEWPORT NSW 2106
Proposed Development:	Construction of a secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nathan Daniel King Vicky Louise King
Applicant:	Nathan Daniel King Vicky Louise King

Application lodged:	28/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	05/03/2019 to 21/03/2019
Advertised:	Not Advertised
Submissions Received:	5
Recommendation:	Approval

Estimated Cost of Works:	\$ 83,550.00
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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 - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation

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

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

SITE DESCRIPTION

Property Description:	Lot 6 DP 12463 , 54 Irrubel Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Irrubel Road.</p> <p>The site is regular in shape with a frontage of 13.9m along Irrubel Road and a depth of 91.7m. The site has a surveyed area of 1237m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a one and two storey dwelling house.</p> <p>The site has a cross fall from north to south (ie. rear to front) of approximately 8m.</p> <p>The site is densely vegetated within the rear portion, where a natural watercourse is also sited.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by similar low density residential development within landscaped settings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the construction of a detached secondary dwelling.

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 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)	<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.

Section 4.15 Matters for Consideration'	Comments
	<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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. 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 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 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 the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of</p>

Section 4.15 Matters for Consideration'	Comments
	the existing and proposed land use.
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 that included a certificate (prepared by Planning for Bushfire Protection, dated 25 January 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as 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 5 submission/s from:

Name:	Address:
Mr Nicholas Andrew Wilson	53 Wallumatta Road NEWPORT NSW 2106
Mrs Ursula Jane Gardiner	62 Irrubel Road NEWPORT NSW 2106
Mrs Carmen Maria Inskip	179 Prince Alfred Parade NEWPORT NSW 2106
Mr Jonathon Norman Cutler	46 A Irrubel Road NEWPORT NSW 2106
Mrs Nicole Jeanette England	56 Irrubel Road NEWPORT NSW 2106

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

- **Privacy**
- **Future Development Opportunity**
- **Landscaping**

- **Boundary clarity**
- **Location of services**
- **External Colours & Finishes**
- **Unauthorised Removal of Trees**
- **Bushfire Attack Level**
- **Siting of Structure**
- **Notification Map Inaccuracies**
- **Zoning & Permissible Development**

The matters raised within the submissions are addressed as follows:

Privacy

Concern is raised that the proposed deck and entrance is sited such that the outlook from the secondary dwelling will directly overlook into the rear yard of No. 56 Irrubel Road. Privacy concern was also raised from No. 46A Irrubel Road, whereby it is thought the western windows will directly look into the master bedroom. Privacy was also raised as an concern from No.62 Irrubel Road, with regard to the orientation of the deck with thoughts that this structure would invade their privacy rather than that of the subject site.

Comment:

The applicant has provided amended architectural plans, to which have enlarged the internal living areas of the secondary dwelling in replacement of the outdoor deck. Further, to ensure reasonable privacy be maintained, the dining room windows along the western elevation have a high sill height of 1.7m from the finished floor level. Similarly, the two windows on the eastern elevation also have high sill heights.

A landscape plan has also been provided which denotes additional vegetation to be planted and conditions of consent has been imposed requiring specifically, that native screen shrub planting be planted along the western boundary for the full length of the secondary dwelling. It is noted that the subject site is densely vegetated, as are the adjoining and surrounding properties.

Further, Clause C1.5 'Visual Privacy' of P21DCP requires private open space areas are to be protected from direct overlooking within 9 metres. It is noted the private open space (ie. the covered deck) of No. 56 Irrubel Road is located approximately 46m from the proposed works. Further, the secondary dwelling measures at minimum, approximately 17.5m from the western most boundary of No. 46A Irrubel. Council's mapping software depicts the dwelling house to be sited within the eastern portion of the allotment, a further 22m (approximately) from the western side boundary. No.62 Irrubel Road is located three properties from the subject site. Therefore the siting of the secondary dwelling largely complies with the required building separation with regards to the adjoining and surrounding properties.

It is considered the amenity for the occupants of the subject site and those of adjoining and surrounding properties will be maintained and protected.

This matter does not warrant the refusal of the application.

Future Development Opportunity

Concern is raised that should the owners of No. 56 Irrubel Road ever want to develop their site (ie. constructing a secondary dwelling) that such structure may overshadow the subject secondary dwelling and its private open space (ie. the deck).

Comment:

There is currently no application on hand for the property at No. 56 Irrubel Road therefore such concern is purely hypothetical. Further, the deck has been removed from the proposed design.

This matter does not warrant the refusal of the application.

Landscaping

Concern is raised that side setback from the western boundary will prohibit the feasibility of landscaping.

Comment:

A landscape plan (prepared by Geoff Burton, dated May 2019) has been provided which denotes the significant provision of vegetation within the site, and particularly in proximity to the proposed works. Further, conditions of consent have been imposed in which require native screen shrub planting to be planted along the western boundary for the full length of the secondary dwelling as well as the planting of additional canopy trees.

This matter does not warrant the refusal of the application.

Boundary Clarity

Concern is raised in that currently there is no definitive boundary line, as certain pegs have fallen out.

Comment:

The application has been accompanied by a Survey Plan (Sheet 1 of 1, dated 23 May 2017) prepared by a registered surveyor, in accordance with Council's lodgement requirements.

This matter does not warrant the refusal of the application.

Location of Services

Concern is raised as to where the utility services will be located; specifically, sewerage pipes are requested to be undergrounded so as to be unseen from the rear yard of No. 56 Irrubel Road.

Comment:

The applicant has provided updated stormwater plans, denoting the specific location of the stormwater pipe. The sewerage is to be a tank and pump underneath the secondary dwelling that is to be piped under pressure to the existing sewerage lines of the principal dwelling. All essential services will be undergrounded, as per the provided plans.

This matter does not warrant the refusal of the application.

External Colours & Finishes

Concern is raised in regards to the indicated external colours of the works being 'dune' as such colour is not considered to be a dark or earthy tone. It is thought that such colour will contrast with the natural landscaping, in turn appearing visually dominant.

Comment:

The applicant has revised the external colours and finishes for the works, such that all external materials are to be finished in recessive colours to harmonise with the natural environment, in accordance with P21DCP provisions. Further, a condition of consent has been imposed requiring all external materials to be dark and earthy and non-reflective.

This matter does not warrant the refusal of the application.

Unauthorised Removal of Trees & Retaining Wall Construction

Concern is raised that the occupants of the subject site have removed/ pruned palms from the rear of their property and trees within No.53 and No.55 Wallumatta Road without the required consent. Further concern was raised in regards to the health of the remaining trees as a result of the alleged unauthorised retaining walls constructed in the rear portion of the site.

Comment:

This matter does not form part of the assessment of the application at hand. This matter has been referred to Council's Building Control team for further investigation. With regard to the concern of tree removal within the objectors' yard (No.53 and No.55 Wallumatta Road) this is a civil matter that does not involve Council.

This matter does not warrant the refusal of the application.

Bushfire Attack Level

Concern is raised that the BAL rating for the subject site should be BAL FZ, rather than the stipulated BAL19.

Comment:

A Bushfire Report, prepared by a consultant qualified in bushfire risk assessment, as recognised by the NSW Rural Fire Service has been provided, in accordance with Council's lodgement requirements. A Bushfire Risk Assessment Certificate completed by an RFS recognised FPA accredited consultant and in accordance with s4.14 of the EP&A Act, 1979 has also been provided. Such Certificate identifies the BAL rating for the development to be BAL19.

This matter does not warrant the refusal of the application.

Siting of Structure

Concern is raised as to why the secondary dwelling is located close to the rear boundary.

Comment:

This matter is addressed in detail elsewhere within this report (refer to Clause D10.8 Side and rear building line under the P21DCP section of this report).

In summary, the assessment of this application has found the proposal to be consistent with the underlying objectives of Clause D10.8 and furthermore, minimal site disturbance is required as a result of the proposed siting.

This matter does not warrant the refusal of the application.

Notification Map Inaccuracies

Concern is raised in that the occupants of No. 62 Irrubel road were not included in the notification map and as such were not sent a letter advising them of the development.

Comment:

In accordance with Council's DCP requirements, a notification letter was sent to adjoining property owners and occupiers and property owners and occupiers directly across a street or road. No. 62 Irrubel Road is located three (3) properties west of the subject site therefore no such notification letter was required to be sent to this address. However, a sign was placed on the site advertising the development notification period.

This matter does not warrant the refusal of the application.

Zoning & Permissible Development

Concern is raised in regard to the density intensification such development will cause. It is said that given the subject site is zoned as E4 Environmental Living, putting 'two properties' on the one block does not align with the low density objective of such zone. Further, it is thought that the peacefulness of the area will be lost forever should the secondary dwelling be rented out for profit. Concern was also raised in that there are no other secondary dwellings within any of the surrounding properties.

Comment:

In accordance with the Pittwater Local Environmental Plan 2014, secondary dwellings are permitted with consent in the E4 zone. The assessment of this application has found the proposal to be consistent with the zone objectives, including providing residential development of a low density and scale integrated with the landform and landscape.

This matter does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Landscape Officer	The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing trees and vegetation, and the completion of landscaping.

Internal Referral Body	Comments
	<p>Council's Landscape section has assessed the proposal against the following Pittwater21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping C1.5 Visual Privacy</p> <p>A Landscape Plan is provided generally satisfying DA Lodgement Requirements, and conditions of consent shall be applied.</p> <p>A Arboricultural Impact Assessment is provided with the application, satisfying DA Lodgement Requirements.</p>
NECC (Bushland and Biodiversity)	<p>Updated comments 04/06/2019</p> <p>The applicant has provided the following additional reports/plans to support the application:</p> <ul style="list-style-type: none"> • Amended plans (MK Design Associates 15/05/2019) • Biodiversity Development Assessment Report [BDAR] (GIS Environmental Consultants 15/05/2019) including separate "Mitigation Measures Table" and BAM data to satisfy minimum requirements set by OEH • Bushfire Risk Assessment, <i>Asset Protection Zone recommendations</i> (Coffey 29/05/2019) • Arboricultural Impact Appraisal and Method Statement report (Naturally Trees 31/05/2019) • Updated Stormwater Management Plan (Barrenjoey Consulting Engineers, Revision B) • Site Plan showing waste, recycling materials stockpiling location (MK Design Associates, not dated) • Revised Landscape Plan (modified by Nick Skelton, 29/05/2019) <p>The proposed impacts to biodiversity include the removal of 2 trees Turpentine <i>Syncarpia glomulifera</i> (T31 and T35) and the remaining vegetation on the property being managed to Inner Protection Area (IPA) standards (totalling 536m²). the Landscape Plan shows the location of 5 replacement canopy tree plantings, 3 <i>Syncarpia glomulifera</i> and 2 <i>Livistona australis</i>. The bushfire consultant states, <i>"It is my considered opinion that to comply with the recommendations of the bushfire risk assessment for APZ requirements, detailed above, no additional trees need to be removed; and, the additional planting of new trees, including two Cabbage Tree Palms, does not compromise the integrity of the proposed on site APZ."</i> The proposed trenching for utilities and stormwater have been aligned to avoid impacts to existing trees proposed to be retained. All waste/recycling and materials stockpiling are located south of the existing house, outside of mapped Littoral Rainforest EEC.</p> <p>The BDAR confirms the presence of Littoral Rainforest Endangered Ecological Community (EEC), which is listed as Endangered under the</p>

Internal Referral Body	Comments
	<p>NSW <i>Biodiversity Conservation (BC) Act 2016</i> and Critically Endangered under the Commonwealth <i>Environment Protection and Biodiversity Conservation (EPBC) Act 1999</i>. The BDAR satisfies the minimum requirements set out by the Biodiversity Offsets Scheme (BC Act and associated regulation as well as the BAM [OEI 2017] and Operational Manual - Stage 1 [OEI 2018]). The assessed residual impacts of the development (development footprint and Asset Protection Zone) result in the offset requirement of 1 credit for Littoral Rainforest EEC (PCT 1833) under the Biodiversity Offset Scheme. The retirement of offsets will be conditioned as part of the consent. Please note that due to the TEC being listed as Critically Endangered under the EPBC Act 1999, any credits are excluded from application of the variation rules that are established by the Biodiversity Conservation Regulation 2017, as per the ancillary rules.</p> <p>Council's Natural Environment - Biodiversity section supports the application, subject to conditions.</p> <p>It should be noted that the submitted ecological reports do not provide an assessment for Littoral Rainforest CEEC against the Commonwealth <i>EPBC Act 1999</i>. It is the applicants responsibility to undertake this assessment external to the DA process.</p> <p>Original comments 04/04/2019 The proposal has been assessed against the Biodiversity Conservation Act, SEPP Coastal Management, Pittwater LEP 7.6, and DCP B4.6.</p> <p>The rear of the site contains a closed canopy that includes native species such as <i>Syncarpia glomulifera</i> and <i>Livistona australis</i>, and a disturbed terraced landscape with dispersed natives and exotic plantings as an understorey.</p> <p>The proposed secondary dwelling is located at the rear of the site within an area that is mapped as Littoral Rainforest on the NSW Biodiversity Values map and triggers the Biodiversity Offsets Scheme under the NSW Biodiversity Conservation Act 2016 and Regulation 2017. As such, the applicant is required to submit a Biodiversity Development Assessment Report (BDAR) prepared by an Accredited Assessor. The BDAR is to include:</p> <ul style="list-style-type: none"> • Proposed development footprint; • Likely construction impacts, including site access for equipment and machinery, material and waste stockpiles; • Installation of services and stormwater infrastructure, OSD tanks, changes in hydrology; • Indirect impacts to biodiversity such as soil disturbance, runoff, waste water disposal, artificial lighting; • Asset Protection Zones and any additional requirements required by the Rural Fire Service and identified in the submitted Bushfire report

Internal Referral Body	Comments
	<p>The site is also located on the SEPP Coastal Management Littoral Rainforest and buffer area map, the Pittwater LEP Biodiversity map and the DCP Wildlife corridor map. The SEE is to include discussion of how the proposal has been designed, scaled and sited to avoid and mitigate impact to trees and the Littoral Rainforest EEC and must address the provisions of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Significant native trees (<i>Syncarpia glomulifera</i> and <i>Livistona australis</i>) are located at the rear of the site and on the adjacent neighbours properties, and are within 5m of the proposed secondary dwelling. Pursuant to DCP B4.6, an Arborist report (prepared by a Level 5 AQF Arborist) is required to assess all native trees within 5m of the proposed works, including excavation, fill or changes in soil level. The report is to indicate the location, species, health and size of trees, assess the impact of the proposal upon those trees, identify any trees that cannot be retained and provide management measures for all trees proposed to be retained. For any trees that cannot be retained, replacement planting is to be provided on a Landscape Plan. It is noted some of the trees may be located within 2m of the proposed secondary dwelling and removal would be permitted without a Council permit once the secondary dwelling is constructed. Thus the Landscape Plan is also to include replacement planting for any trees located within 2m of the proposed works.</p> <p>There is insufficient information to meet the NSW legislative requirements and to demonstrate compliance with the Pittwater LEP and DCP controls. The following is required:</p> <ul style="list-style-type: none"> • BDAR as detailed above • Revised SEE to address above requirements • Arborist report as detailed above • Landscape Plan identifying replacement planting for any trees that cannot be retained, or are within 2m of the secondary dwelling, and 80% of new plantings from the Littoral Rainforest EEC.
NECC (Development Engineering)	<p>The site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achievable in accordance with the geotechnical report provided by White geotechnical group. Council's Pittwater 21 DCP 2014 clause B5.7 requires provision for On Site Detention stormwater Management for the development where the impervious area exceed 50 m2, Accordingly conditions requiring the provision for OSD has been recommended.</p> <p>No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and	This application is recommended for approval.

Internal Referral Body	Comments
Creeks)	Both the stormwater plan and sediment control plan adequately address Council's requirements under Pittwater 21 DCP B5.8, and SEPP (Coastal Management) 2018. The planned outlet structure meets the requirements of Pittwater 21 DCP B5.11. Sediment and erosion controls must be installed prior to any work on site and maintained until all work is complete and groundcover re-established. The most important barrier is the proposed geofab silt sock around the top of the waterway.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed DA generally complies with the flood controls of the LEP and DCP.

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.

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. 932096S).

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 compliance with the commitments indicated in the BASIX Certificate.

SEPP (Coastal Management) 2018

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

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 adequately addresses such requirements.

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

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

Comment:

The proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest. Further, the proposed works will not significantly impact on the

quantity and quality of surface and ground water flows to and from the adjacent littoral rainforest. Adequate stormwater and sediment control plans have been provided to address such requirements.

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 development is not considered likely to cause increased risk of coastal hazards on that land or other land.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	Secondary dwellings - 5.5m	5.46m	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
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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
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Front building line	6.5m	77.8m	N/A	Yes
Rear building line	6.5m	4.4m	32.4%	No
Side building line	2.5m	3.0m <i>East</i>	N/A	Yes
	1m	1.3m <i>West</i>	N/A	Yes
Building envelope	3.5m	Within envelope <i>East</i>	N/A	Yes
	3.5m	Within envelope <i>West</i>	N/A	Yes
Landscaped area	60% (742.2m ²)	58.01% (717.6m ²)	3.32% (24.6m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	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
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

The control requires two (2) on-site parking spaces for a dwelling house with two (2) bedrooms or more. With the introduction of the secondary dwelling, a third parking space is required in accordance with the Control. The provided site plan (drawing number DA-01, dated 15 May 2019) denotes three hard stand spaces exist within the subject site, behind the 6.5m front setback. In this regard, the proposed development complies with the requirements of this Control.

B8.3 Construction and Demolition - Waste Minimisation

No Waste Management Plan has been provided as part of this application. A condition of consent has been imposed, requiring such plan be prepared and followed in accordance.

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

Description of non-compliance

The control requires built structures to be setback 6.5m from the rear property boundary.

The proposed works are setback 4.38m from the rear boundary, which represents a variation of 32.62%.

Merit consideration

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

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

Comment:

The proposal will appropriately contribute to the provision of housing needs for the community, in a setting that is considered to achieve the desired future character of the Newport locality.

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

Comment:

The proposed works remain below the prescribed size and height for a secondary dwelling in an E4 zone. The proposed siting provides generous building separation and additional landscaping, which will act as a screening mechanism to furthermore visually reduce the built form.

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

Comment:

No views or vistas will be hindered as a result of the proposal, given the built form remains below the building height Control and has been sited centrally within the rear portion of the property. Further, generous building separation will be maintained between adjoining and surrounding properties which will contribute to the equitable preservation of views and vistas to and/or from public/private places.

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

Comment:

As above, no views or vistas will be hindered as a result of the proposal. The building has been appropriately sited and designed so to ensure amenity is protected in addition to providing for maximum retention of significant vegetation. Additional landscaping has been proposed which will contribute to the softening of the built form.

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

Comment:

The proposal incorporates a high sill window along the western elevation of the secondary dwelling. This mechanism will ensure reasonable amenity levels be maintained and protected for occupants of the subject site and those of adjoining properties. Further, the significant onsite vegetation will be enhanced as a result of additional plantings which will contribute to the protection of amenity. Reasonable solar accessibility will be maintained for the subject site and adjoining properties, as a result of the modest building height and scale.

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

Comment:

The proposal will remain unseen from the streetscape. Further, significant additional plantings have been proposed and enforced as a condition of consent which will ensure the onsite landscaping and tree canopy is maintained and enhanced.

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

Comment:

No unreasonable amenity impacts are considered likely to arise as a result of the proposal. The current access arrangement is to be maintained therefore satisfying this objective.

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

Comment:

Two (2) trees that are classified to be of a low-retention value (as per the provided Arboricultural Impact Assessment, dated 31 May 2019) are required to be removed. However, additional planting is proposed and has been enforced as a condition of consent. The additional planting in conjunction to the significant dense vegetation within the rear portion of the site will ensure the built form is sufficiently screened.

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

Comment:

Not applicable, as the subject site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The control requires a minimum of 60% (742.2m²) of the site to be landscaped area.

The proposed development provides 58.01% (717.6m²) of the total site area as landscaped area which represents a variation of 3.3% (24.6m²).

The variations provision prescribed within the Control, allows for up to 6% of the total site area to be impervious landscape treatment provided the objectives of the Control are achieved and that such area is provided for outdoor recreational purposes only. As below, the objectives of the Control are achieved, therefore the variation is permitted. The landscaped area of the site therefore increases to 64.01%.

Merit consideration

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

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

Comment:

The proposal is modest in size, and does not require the removal of high-retention valued species. It is considered the proposed works achieve the desired future character of the Newport locality.

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

Comment:

The proposal remains within the prescribed height and area parameters for secondary dwellings in an E4 zone. Further, significant vegetation will surround the secondary dwelling, further minimising the built form.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment:

The proposal has incorporated privacy mechanisms including high silled windows in conjunction with additional landscaping. Reasonable amenity levels including privacy (both acoustic and visual) and solar access will be protected and maintained for the occupants of the subject site and those of adjoining and surrounding properties.

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

Comment:

Two trees of a low retention value are required to be removed to facilitate the proposed works. Additional planting is however proposed and has been conditioned, which will enhance the on-site capacity of vegetation. As such, the built form will be sufficiently screened and visually reduced as a result.

- *Conservation of natural vegetation and biodiversity.*

Comment:

No significant vegetation aside from two low-retention valued trees are required to be removed to facilitate the proposed works. In addition, new plantings have been imposed as conditions of consent which will ensure natural vegetation and biodiversity enhances.

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

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections subject to conditions included in the recommendation of this report. It is considered the site contains a reasonable amount of pervious surface which will contribute to the prevention of soil erosion and siltation of natural drainage channels.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

The on-site capacity of natural vegetation will be enhanced as a result of this application, which will contribute to the preservation and enhancement of the bushland character of the area.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

Sufficient pervious surfacing is provided on-site which will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

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

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any

unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0195 for Construction of a secondary dwelling on land at Lot 6 DP 12463, 54 Irrubel Road, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-01, No. B - Site Plan	15 May 2019	MK Design Associates
DA-02, No. A - Floor and Roof Plans	15 May 2019	MK Design Associates
DA-03, No. A - Sections	15 May 2019	MK Design Associates
DA-04, No. A - North & East Elevations	15 May 2019	MK Design Associates
DA-05, No. A - South & West Elevations	15 May 2019	MK Design Associates

Engineering Plans		
Drawing No.	Dated	Prepared By
SW1B - Stormwater Management Plan	undated	Barrenjoey Consulting Engineers Pty Ltd
SW2 - Stormwater Management Detailing 1	undated	Barrenjoey Consulting Engineers Pty Ltd
SW3B - Stormwater Management Detailing 2	undated	Barrenjoey Consulting Engineers Pty Ltd
CIV1 - Sediment & Erosion Control Plan	undated	Barrenjoey Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	31 May 20019	Andrew Scales
Biodiversity Development Assessment Report	May 2019	GIS Environmental Consultants
Bushfire Report (Ref: 1179-R)	25 January 2019	Planning for Bushfire Protection
Flood Report	29 May 2018	Barrenjoey Consulting Engineers Pty Ltd
Flora & Fauna Report	08 December 2017	Coastal Care Horticultural Services
Geotechnical Report (Ref: J1581)	23 May 2018	White Geotechnical Group
BASIX Certificate (Cert. No. 932096S)	27 February 2019	Deneb Design

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
Sheet 1 of 1 - Landscape plan	May 2019	Geoff Burton MAIH

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

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

2. Prescribed Conditions

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

hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

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

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

Reason: Legislative Requirement

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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

4. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group (J1581) dated 23rd May, 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

6. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's current PITTWATER DCP21 clause B5.7.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field.

The drainage plans must address the following:

- i) Minimum On site Detention storage capacity 4500 litres
- ii) Premissable discharge rate of 2 litres/sec

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. **Site Management Plan**

A Site Management Plan shall be prepared indicating ground and aerial protection for existing vegetation to be protected, identifying nominated construction access routes, utility excavation areas, and material storage areas.

The Plan shall demonstrate the proposed access provisions in accordance with AS4970-2009 Protection of trees on development sites, with specific reference to section 4.5.3 Ground protection, and the requirement for rubble board ground protection during the construction period to reduce impact upon tree roots, as well as trunk and branch protection where required.

All utility services should be located outside the tree protection zone (TPZ).

8. Engagement of a Project Ecologist and the Mitigation Measures Table

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent and the Biodiversity Development Assessment Report (GIS Environmental Consultants 15/05/2019) including separate "Mitigation Measures Tables" (copied below). The Project Ecologist will be required to certify all mitigation measures (including photographic evidence) have been implemented to be submitted to the Principal Certifying Authority prior to issue of Occupation Certificate.

The Project Ecologist must be an accredited assessor under the NSW *Biodiversity Conservation Act 2016*.

The project ecologist is to provide an engagement letter, which is to be submitted to and certified by the Principal Certifying Authority and Council prior to issue of Construction Certificate.

Table 1. Mitigation Measures to be implemented during construction

Action	Outcome	Timing	Responsibility
Sediment controls are to be installed, monitored and only removed when the area has been stabilised	Reduce sediment run off during construction.	Installed prior to construction and maintained during construction	Project manager/ owner with assistance from the Project Ecologist
Minimal to no disturbance of the native plant species in the ground cover	Avoid increased erosion on the Development Site. Reduce impact to native vegetation and habitat within the Development Site. Photos to be taken before works and after works.	During Construction	Everyone entering the site
Works for bushfire protection and works adjacent to the creek are to not reduce riparian habitat values on the site or downstream	Avoid degradation of riparian habitat on site and downstream.	During construction and after construction	Project manager and Bush Regeneration
Landscaping is to only use local native species to the Littoral Rainforest grown from seed stock, tube-stock or cuttings	Avoid introduction of weeds and exotic species. Maintain native Littoral rainforest community on the site	During construction and after construction	Landscaper and Owner

There is to be no earthworks during wet weather	Reduce erosion and sediment runoff	During construction	Builder
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Table 2. Mitigation Measures to be implemented after construction

Action	Outcome	Timing	Responsibility
Weeds are to be effectively controlled on the whole of the property in the long-term using industry standard techniques and qualified bush regenerators	Reduction of weeds on the site	after construction and ongoing management	Owner and Bush regeneration contractor
No pesticides or insecticides are to be used on the within the Development Site	Reduce impact to native vegetation and fauna in the site	Before, during and after construction	Owner and bush regeneration contractor
Automatic motion sensing LED lights should be used in outdoor lighting. No direct lights should be faced into adjacent vegetation to the north of the secondary dwelling	Avoid impact to nocturnal fauna in adjacent bushland	During construction and after construction	Builder and owner
Continued maintenance of the APZ is to be achieved by firstly (logs and rocks are to be retained). The weeds, cut material and flash fuel must be removed from the property. There is no need for disturbing native ground cover plants, or the already sparse shrub layer or most of the trees or disturbing or exposing the soil surface. It is recommended that fuel reduction maintenance occurs every September.	Avoid impact to native vegetation and habitat on the site	After construction	Bush regeneration contractor and owner

Reason: To protect native vegetation and wildlife in accordance with relevant Natural

Environment LEP/DCP controls. (DACNECPCC2)

9. Notification of determination to which the Biodiversity Offset Scheme applies

Within two weeks of the date of the Notice of Determination, the applicant must download and complete the “Biodiversity Offsets Scheme – Notification of Determination” form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre at <lmbc.support@environment.nsw.gov.au>.

The LMBC Service Centre currently arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

The Principal Certifying Authority and Council must be copied into the notification email to confirm compliance.

Reason: to ensure the NSW Office of Environment and Heritage are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance. (DACNECPCC1)

10. Compliance with approved BDAR impact mitigation table to minimise impacts – Prior to Construction

The approved BDAR includes two tables of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility. These have been copied into these conditions of consent.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Council for certification prior to issue of Construction Certificate.

Reason: to ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR (DACNECPCC2)

11. Like for like credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant construction certificate the class and number of ecosystem credits in Table 3 below must be retired to offset the impacts of the development. The proponent has provided evidence they have taken reasonable steps to seek like for like credits as per the ancillary rules.

The requirement to retire credits outlined in Table 3 below may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the General Manager Environment & Sustainability of Northern Beaches Council prior to release of construction certification.

Table 3 Ecosystem credits required to be retired – like for like

Impacted plant community type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type (s) that can be used to offset the impacts from development
1833-Lilly Pilly - Cabbage Tree Palm littoral rainforest on escarpment slopes and gullies of the Sydney basin	Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	1	YES	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. OR Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Any PCT with the below TEC Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (including PCT's 670, 751, 910, 1534, 1536, 1537, 1832, 1833)

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme. (DACNECPCC3)

12. 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.

13. External Finishes to Roof

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

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

14. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or

easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

15. Waste Management Plan

A Waste Management Plan must be prepared for the development. The plan must be in accordance with the Development Control Plan.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Tree protection measures

A Project Arborist with AQZ Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing trees nominated for retention and protection in the Arboriculture Impact Appraisal and Method Statement prepared by Naturally Trees Arboricultural Consulting, requiring site attendance during clearing, excavation and construction works, and in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4.

The Project Arborist will be required to supervise any works within the tree protection zone (TPZ) of existing trees to be retained.

Tree protection fencing as listed in section 4.2.1 of the Arboricultural Impact Appraisal and Method Statement shall be undertaken and certified by the Project Arborist.

Trunk and ground protection as listed in section 4.2.2 of the Arboricultural Impact Appraisal and Method Statement shall be undertaken and certified by the Project Arborist. Ground protection shall be installed near existing trees numbered 22, 23, 24, 25, 26, 28, 29, 30, 32, 33 and 34.

The tree protection measures specified in this clause must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- iii) remain in place for the duration of the construction works.

The Project Arborist shall submit certification to the Certifying Authority that all tree protection measures as listed above have been completed prior to the commencement of excavation and construction works,

Reason: to ensure tree protection is provided and maintained.

17. Tree removal

In consideration of the assessment of development impact, the following existing trees are approved for removal, based on the recommendations of the Arboriculture Impact Appraisal and Method Statement prepared by Naturally Trees Arboricultural Consulting:

- Trees 31 (poor condition) and Tree 35 (dead).

18. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. 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.

20. Tree and vegetation protection

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

- i) all trees and vegetation within the site identified for retention in the Arboriculture Impact Appraisal and Method Statement prepared by Naturally Trees Arboricultural Consulting, including existing trees numbered 03 to 20 inclusive, 22 to 26 inclusive, 29, 30, and 32 to 34 inclusive, excluding exempt trees and palms under the relevant planning instruments of legislation,
- ii) all other trees and vegetation located on adjoining properties, including as identified in the Arboriculture Impact Appraisal and Method Statement, and in particular existing trees numbered 21, 27, and 28.
- iii) all road reserve trees and vegetation, including existing trees numbered 01 and 02.

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.

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

21. **Compliance with approved BDAR impact mitigation table to minimise impacts – During Construction**

The approved BDAR includes two tables of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility. These have been copied into these conditions of consent.

All biodiversity-related measures are to be implemented during construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Council prior to issue of Occupation Certificate.

Reason: to ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR (DACNEEDW1)

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 works**

Landscaping is to be implemented in accordance with the Landscape Plan prepared by Geoff Burton, inclusive of the following requirement:

i) all nominated tree planting shall have a minimum area of 3 metres x 3 metres of soil area, and shall be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used,

ii) screen native shrub planting shall be planted along the western boundary for the full length of the secondary dwelling, capable of attaining 3 metres at maturity and be planted no more than 1 metre apart, and at a minimum container size of 200mm pots.

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 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.

24. **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.

25. **An Application for the 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), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

26. **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 Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

27. **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 Principal 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.

28. **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 Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

29. **Replacement of Canopy Trees**

At least 5 locally native canopy trees are to be planted on site to replace trees approved for removal (at least 3 *Syncarpia glomulifera* and 2 Cabage Tree Plams *Livistona australis*. 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 prior to issue of any Occupation Certificate.

Reason: To establish appropriate landscaping in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

30. **Certification for the Installation of Stormwater Quality Management System**

A certificate from a Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER-3) must be provided, stating that the sediment sump pit and outlet into the watercourse has been installed in accordance with the plans prepared by Barrenjoey Consulting Engineers.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment (DACNEFPOC1)

31. **Compliance with approved BDAR impact mitigation table to minimise impacts – Occupation Construction**

The approved BDAR includes two tables of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility. These have been copied into these conditions of consent.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and

photographic evidence, and provide to the Principal Certifying Authority and Council prior to issue of Occupation Certificate.

Reason: to ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR (DACNEFPOC2)

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

32. Landscape maintenance

All landscape components are 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 and species to maintain the landscape theme of the landscape plan and site character.

Reason: to maintain the environmental amenity and ensure landscaping continues to provide privacy.

33. Environmental and priority weed control

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

Reason: preservation of environmental amenity.

34. 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.

35. Compliance with approved BDAR impact mitigation table to minimise impacts – Post Construction/Ongoing

The approved BDAR includes two tables of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility. These have been copied into these conditions of consent.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to Council as per the mitigation table.

Reason: to ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR (DACNEGOG1)

36. **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.

37. **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.

38. **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.

39. **External Colours & Finishes**

All finished surface materials, including colours and texture of any building, shall be dark and earthy and blend with the surrounding and/or natural materials. The colours and materials used shall be non-glare and of low reflectivity.

Reason: To minimise the visual impact of the development.

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

Signed



Georgia Quinn, Planner

The application is determined on 12/06/2019, under the delegated authority of:



Daniel Milliken, Acting Development Assessment Manager