

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/1295
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<b>Responsible Officer:</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 2 DP 618622, 17 Minkara Road BAYVIEW NSW 2104
<b>Proposed Development:</b>	Construction of a shed
<b>Zoning:</b>	R5 Large Lot Residential RU2 Rural Landscape
<b>Development Permissible:</b>	Yes - Zone RU2 Rural Landscape Yes - Zone R5 Large Lot Residential
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Natalia Scognamiglio
<b>Applicant:</b>	Fernleigh Drafting

<b>Application Lodged:</b>	30/08/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	09/09/2022 to 23/09/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 47,800.00
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### PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for the construction of a new shed and associated awning. The proposed shed and awning will be constructed on an existing concrete slab. These concrete slabs were authorised by a Building Information Certificate BC2021/0228 which was approved on 04/02/2022.

### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures

Pittwater 21 Development Control Plan - D6.6 Side and rear building line

Pittwater 21 Development Control Plan - D6.8 Landscaped Area - Non Urban General

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 618622 , 17 Minkara Road BAYVIEW NSW 2104
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Minkara Road.</p> <p>The site is regular in shape with a frontage of 112.78m along Minkara Road and a depth of 179m. The site has a surveyed area of 2.024ha</p> <p>The majority of the site is within an RU2 Rural Landscape zone, while the northern part of the site is within an R5 Large Lot Residential zone. Parts of the front, rear and northern side boundaries adjoin R5-zoned areas, while the remainder adjoins other RU2 zoned areas. Development on the subject site includes a large dwelling house that contains three approved "wings"; a "family retreat" outbuilding; tennis court; swimming pool. A recently constructed concrete slab is also located in the location of the proposed shed.</p> <p>The site falls from the south-east to north-west by approximately 12m</p> <p>The site contains a variety of canopy trees dispersed throughout the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

Adjoining and surrounding development is characterised by rural and low-density residential development and associated structures.

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:

- Development Application **N0176/98** for a new single dwelling - Approved
- Development Application **N0124/01** for a detached metal garage - Approved 2001
- Development Application **N0443/10** for a 'family retreat' comprising studio, study and bathroom - Approved 2010
- Development Application **N0028/16** for a alterations and additions to the existing dwelling - Approved 2016
- Building Information Certificate **BC2021/0228** for a unauthorised concrete slab - Approved 04/02/2022

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
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)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 4.15 Matters for Consideration	Comments
	(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.
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 Australian Bushfire Consulting Services, dated 02 July 2022) 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 from 09/09/2022 to 23/09/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Guo Wan	3 Gilwina Drive BAYVIEW NSW 2104

The following issues were raised in the submissions:

- Tree protection

The above issues are addressed as follows:

- **Tree protection**



The submissions raised concerns that the proposed shed close to native Gum Trees.

Comment:

The proposed development does not seek the removal of any prescribed trees and vegetation and will be situated on existing concrete slabs. The proposal has been reviewed by Council's Landscape Officer and Biodiversity Officer who support the proposal subject to conditions including tree protection methods prepared by an Arborist with minimum AQF Level 5 in arboriculture.

**REFERRALS**

Internal Referral Body	Comments
Environmental Health (unsewered lands)	<p><b>Supported Subject to Conditions</b></p> <p>Environmental Health have been requested to comment on how wastewater will be managed on-site with the inclusion of a Detached Steel Framed Shed.</p> <p>Given the size of the property there is sufficient space for disposal of effluent. The property is currently serviced by a domestically accredited poly aerated wastewater treatment system with spray irrigation for the land application method. The property's wastewater system has recently been inspected by a Council officer and issued a works required letter that requires completion of items prior to an approval being issued.</p> <p>No wastewater report has been submitted with the development application which is not an issue based on a shed not providing an increase to the equivalent population of the property as long as it is not habituated.</p> <p>Environmental health propose a condition that prevents the shed to be used for habitation so not as to affected wastewater generation for the site and require an approval to operate prior to the issue of the OC.</p>
Landscape Officer	<p>Landscape Referral raise no objections to the development application.</p> <p>Existing trees as shown on the Survey Plan are in proximity to works. The existing trees are able to be preserved in a viable condition subject to tree protection measures that shall be imposed by conditions. The Statement of Environmental Effects notes that no existing trees are required to be removed. No Arboricultural Impact Assessment is submitted and as such a Tree Protection Plan shall be submitted prior to construction certificate.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development for a new shed will not require the removal of any trees or native vegetation, and will not impact heathland/woodland vegetation on the site or adjoining properties. The development is designed, sited and will be managed to avoid any significant adverse environmental impact, including matters addressed under State Environmental Planning Policy (Biodiversity</p>

Internal Referral Body	Comments
	and Conservation) 2021 (Chapter 4 Koala habitat protection 2021).
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The property has only very slight flood affectation from the Probable Maximum Flood, and the proposed shed is outside of that flood affected area. There are no applicable flood related development controls.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.  Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.  Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or

an application for modification of consent) for any development carried out:

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

Comment:

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

**SEPP (Resilience and Hazards) 2021**

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Zone RU2: Yes Zone R5 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone RU2: Yes Zone R5 : Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes



Clause	Compliance with Requirements
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **7.6 Biodiversity protection**

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

#### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

#### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

#### Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to

approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

### Pittwater 21 Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20m	112m	N/A	Yes
Rear building line	20m	44m	N/A	Yes
Side building line	20m (N)	12m	40%	<b>No</b>
	20m (S)	85m	N/A	Yes
Building envelope	3.5m (N)	Within envelope	N/A	Yes
	3.5m (S)	Within envelope	N/A	Yes
Landscaped area	96% of the total site area minus 400 square metres (19,030.4sqm)	88.8% (17,986 sqm)	5.5%	<b>No</b> (No change)

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.1 Flora and Fauna Conservation Category 1 Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D6.1 Character as viewed from a public place	Yes	Yes
D6.3 Building colours and materials	Yes	Yes
D6.5 Front building line	Yes	Yes
D6.6 Side and rear building line	No	Yes
D6.7 Building envelope	Yes	Yes
D6.8 Landscaped Area - Non Urban General	No	Yes
D6.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

### Detailed Assessment

#### **C1.3 View Sharing**

No submission with regards to view loss was received from surrounding neighbours. Given the substantial setbacks, general compliance and single storey nature of the proposal, no unreasonable view loss is anticipated.

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

Given the substantial separation of the proposal to adjoining properties, no unreasonable privacy impacts are anticipated. Screening vegetation is proposed to be retained along side and rear boundaries which will provide adequate privacy. Additionally, the proposed shed is a non-habitable structure.

#### **C1.14 Separately Accessible Structures**

If approved, a condition of consent is to be imposed ensuring the proposed shed is not to be used for separate habitation and is not to contain cooking facilities.

#### **D6.6 Side and rear building line**

##### Description of non-compliance

Clause D6.6 of the Pittwater 21 DCP requires development be setback at 20m from side boundaries.

The proposed shed is set back 12m from the northern side boundary, representing a 40% variation of the 20m requirement.

## Merit Assessment

With regard to this numerical non-compliance, the proposal is considered against the underlying outcomes of the control as follows:

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

### Comment:

The proposed development would be consistent with the character low density rural residential setting.

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

### Comment:

The proposal complies with the height of building, building envelope, and front setback requirements, ensuring the extent of the built form is minimised. The proposed shed addition maintains existing established side and rear setbacks and the bulk and scale of the development would be consistent with the existing and surrounding site conditions

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

### Comment:

The proposal is not considered to result in unreasonable view impacts.

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

### Comment:

The proposed works are not anticipated to impact on any existing views enjoyed by the subject property and surrounding dwellings.

- *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 maintains substantial building separation to ensure a reasonable level of amenity is maintained. The proposed structure will also be non-habitable. In addition, given the single storey nature and spatial separation of the works, the proposal will not give rise to any adverse overshadowing impacts.

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

### Comment:

The development does not propose to remove any substantial planting or large trees on the site which contribute to the overall natural character of the site. The proposed works will have a minimal impact on the site when viewed from Minkara Road. The streetscape character will be maintained.

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

### Comment:

The proposal is considered to be an appropriate response to the development of the site, considering existing site conditions. Adequate pedestrian access to the site is maintained.

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

Comment:

The proposed dwelling is surrounded by trees, landscaping and vegetation to adequately reduce the built form. No trees are proposed to be removed. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions.

- *A landscaped buffer between commercial and residential zones is achieved. (En, S)*

Comment:

Not applicable.

- *To preserve and enhance the rural and bushland character of the locality (En, S)*

Comment:

The proposal will not involve the removal of any significant vegetation. In addition, Council's Bushland and Biodiversity division has reviewed proposal and are satisfied that it is consistent against relevant environmental controls, subject to conditions.

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

Comment:

Not applicable

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.

## **D6.8 Landscaped Area - Non Urban General**

### Description of non-compliance

The proposal does not comply with the numerical control for landscaped area (96% minus 400sqm).

The proposal provides landscaped area of approximately 17,986sqm which equates to 88.8% of the site area.

It should be noted that this calculation does not include porous driveway or swimming pool which are excluded by the variations of this control.

It should also be noted that the proposed shed will be located on existing concrete slabs (authorised by Building Information Certificate BC2021/0228) and will not result in the removal of additional landscaped area.

### Merit assessment

With regard to this numerical non-compliance, the proposal is considered against the underlying



outcomes of the control as follows:

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

Comment:

The proposed building would be consistent with the character low density rural residential setting.

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

Comment:

The proposed works comply with the development standard for building height and are over 100m from the nearest street. Along with the numerous trees to the front of the site, this provides a presentation, scale, and density that is appropriate for the streetscape and area.

- *To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site.*

Comment

The proposed shed is suitably separated from neighbouring dwellings and would not overshadow neighbouring living areas or private open space.

- *To preserve and enhance vegetation to visually reduce the built form.*

Comment:

The proposed dwelling is surrounded by trees, landscaping and vegetation to adequately reduce the built form. No trees are proposed to be removed.

- *To conserve significant natural features of the site and contribute to effective management of biodiversity*

Comment:

The proposed development does not seek the removal of any prescribed trees and vegetation and will be situated on existing concrete slabs. The proposal has been reviewed by Council's Landscape Officer and Biodiversity Officer who support the proposal subject to conditions including tree protection methods. The proposal provides a extensive area of landscaping to the front and rear of the site which allows for vegetation and provides an positive outcome for biodiversity.

- *To minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property.*

Comment:

The development does not propose the removal of any significant trees or vegetation. The proposal has been reviewed by Council's Biodiversity Officer who has raised no objections subject to recommended

conditions.

- *To provide for infiltration of water to the water table, minimise stormwater runoff and assist with stormwater management to reduce and prevent soil erosion and the siltation of natural drainage channels.*

Comment:

The proposal provides landscaping to the surround the site and as such a reasonable situation for stormwater infiltration is provided for in this instance. The proposal has been reviewed by Council's Development Engineer who have raised no objection to the proposal subject to conditions.

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

Comment:

Soft surface is provided to the front, rear and side boundaries of the site. This is reasonable having regard to the context of the site. The proposal has been reviewed by Council's Development Engineer who have raised no objection to the proposal subject to conditions.

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

Comment:

The proposal complies with the development standard for building height and is well setback from the street. Along with the vegetation retained and proposed to the front of the site, this provides an outcome which is suitable for the rural and bushland characteristics of the area.

The proposal is consistent with the underlying outcomes of the clause and as such is reasonable in this instance.

## **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 2022**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/1295 for Construction of a shed on land at Lot 2 DP 618622, 17 Minkara Road, BAYVIEW, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
01 - Site Plan	April 2022	Fernleigh Drafting
02 - Floor Plan & Storm Water Concept	April 2022	Fernleigh Drafting
03 - Section	April 2022	Fernleigh Drafting
04 - Elevations	April 2022	Fernleigh Drafting
05 - Elevations	April 2022	Fernleigh Drafting

<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>
Bushfire Assessment Report	02/07/2022	Australian Bushfire Consulting Services

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>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	01/05/2022	Fernleigh Drafting

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	Ausgrid Referral Response	12/09/2022

(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. **Approved Land Use**

Nothing in this consent shall authorise the use of the site beyond the definition of a dwelling house, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

*"dwelling house means a building containing only one dwelling."*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

## 4. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the shed or other structures on site for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed within the proposed shed.

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

**5. Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost



of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 6. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$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 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 7. Security Bond

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

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

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

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

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

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

### 8. Tree Protection Plan

a) A Tree Protection Plan shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures to protect all existing trees within 5 metres of development works.

b) The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) layout of the development, including existing and proposed underground services,
- ii) location of all trees identified for retention, including extent of canopy,
- iii) access routes throughout the site for construction activity,
- iv) plan documentation of tree protection measures including: location of tree protection fencing / barriers, and/or; root protection in the form of mulching or boards proposed within the tree protection zone, as required; and trunk and branch protection within the tree protection zone, as required,
- v) location of stockpile areas and materials storage,
- vi) inspection hold points,
- vii) other general tree protection measures.

c) Tree protection methods are to be in accordance with AS4970-2009 Protection of Trees on Development Sites.

9. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

10. **External Finishes to Roof**

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

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

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

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

11. **Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site, 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) or vi) 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) 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, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

c) 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.

12. **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 protect native wildlife.

13. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

14. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

15. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL



IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

16. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

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

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

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

18. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

19. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

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

### 20. **Stormwater Disposal**

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

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

### 21. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

### 22. **Waste Management Confirmation**

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

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

### 23. **Waste Water System**

Prior to the issuing of an Occupation Certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifier.

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

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

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

### 24. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

### 25. **Use of Shed**

The detached shed is not to be used for the purpose of separate habitation (including a

secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the cabana remains non-habitable

26. **No habitation of shed structure**

The shed structure shall not be used for habitation for the life of the development.

Reason: To ensure that wastewater generation is not increased and effluent can be effectively managed on-site.

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

**Signed**



**Gareth David, Planner**

The application is determined on 03/11/2022, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**