

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1516
----------------------------	-------------

Responsible Officer:	Michael French
Land to be developed (Address):	Lot 1 DP 214956, 30 Herbert Avenue NEWPORT NSW 2106
Proposed Development:	Retaining walls, decking, associated landscape works and tree removal
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sean Herrington
Applicant:	Serenescapes Landscape Designs Pty Ltd

Application Lodged:	21/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/10/2022 to 18/10/2022
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 233,265.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the following:

- Construction of a covered deck area.
- Construction of a boardwalk.
- Minor additional external alterations and additions.
- Minor additional landscaping works.

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 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

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 1 DP 214956 , 30 Herbert Avenue NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of 30 Herbert Avenue, Newport.</p> <p>The site is irregular in shape with a frontage of 34.62m along 30 Herbert Avenue and a maximum depth of 40m. The site has a surveyed area of 1350m².</p> <p>The site is located within the C4 Environmental Living zone, pursuant to the Pittwater Local Environmental Plan 2014 and accommodates a single dwelling house.</p> <p>The site slopes downward toward the northern rear of the property.</p> <p>The site has a mix of vegetation in both the front and the rear yards. There are no details of any threatened species on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by similar dwellings within a C4 Environmental Living zone.

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.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow</p>

Section 4.15 Matters for Consideration	Comments
	<p>Council to request additional information. Additional information was requested in relation to an Arborist Report and a Tree Risk Assessment.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&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&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&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>
<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>	<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 the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/10/2022 to 18/10/2022 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 3 submission/s from:

Name:	Address:
Mr Steven Frank Newman	9 Elvina Avenue NEWPORT NSW 2106
Mr Robert Dixon Kitchen Mrs Mary Kitchen Geoff Kitchen	5 Elvina Avenue NEWPORT NSW 2106
Northern Development Assessment	169 Barrenjoey Road NEWPORT NSW 2106

The following issues were raised in the submissions:

- Tree Removal
- Visual Privacy
- Stormwater

The above issues are addressed as follows:

- **Tree Removal**

Concern is raised in regard to the removal of trees, with such a steep incline to the slope, the loss of the trees will have a destabilising effect upon the site.

The loss of established larger trees has a negative impact on the local wildlife, with their habitats removed the local birdlife will take a long while (if ever) to re-establish. Great owls are often in this area and require large trees to settle in.

Comment:

The application was accompanied by an Arborist report and an Advanced Level 3 Tree Risk Assessment.

The submission refers to the destabilising effect caused by the proposed removal of vegetation. The removal of the Eucalyptus Punctata is deemed necessary as the tree has been assessed by Arboricultural Tree Services as High Risk of failure. Additionally, all other vegetation proposed for removal is exempt and doesn't require Council consent. The proposed additional plantings are considered by Council's Landscape Officer to be satisfactory. Notwithstanding this, the trees proposed for removal have been assessed by Councils Landscape Officer and Councils Bushland and Biodiversity Officer who have provided the following comments:

Landscape Officer

Additional Information Comment 21/12/2022

This DA includes a request to remove a 30m tall Eucalyptus punctata. The initial Arborist's report did not include a detailed assessment of the tree's health, but noted some potential issues. Additional information was requested for internal investigations into the tree to establish extent of any decay.

A detailed Advanced Level 3 Tree Risk Assessment has been provided (Advanced Level 3 Tree Risk Assessment by Arboricultural Tree Services P/L) which has established:

- 1. The presence of the decay fungus Armillaria luteobubalina and*
- 2. A significant extent of internal decay*

The tree is assessed as a High Risk with the likelihood of failure Probable and the consequences of failure High.

In consideration of the findings of the detailed investigations, no objections are now raised to removal of the tree subject to replacement with 2 x E. punctata in addition to the trees proposed in the Landscape Plan.

Bushland and Biodiversity officer

Additional Information Comment 22/12/2022

This DA includes a request to remove a 30m tall Eucalyptus punctata and further detailed assessment indicates that the tree is assessed as a High Risk with the likelihood of failure Probable and the consequences of failure High. Council's Landscape team have approved its removal and have conditioned replacement with 2 x E. punctata in addition to the trees proposed in the Landscape Plan.

Based on this fact the proposal and the findings of the BDAR are acceptable, a Serious and Irreversible Impact will not result, and the recommended Biodiversity credit obligation and additional impact mitigation measures will be included within suitable consent conditions.

- **Visual Privacy**

The position and location the deck and board work is considered to have an adverse privacy impact.

Comment:

C1.5 Visual Privacy- Pittwater Development Control Plan requires private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation.

The submission raises concerns regarding privacy impacts from the elevated seating area.

The numerical setback of the elevated seating area from all private internal areas of the adjoining dwelling is greater than 9 metres and does not overlook the primary open space. The elevated seating area is compliant with building height and setback requirements, not forming any non

compliances. Additionally, proposed screen planting between the elevated seating area and the rear boundary is considered to provide adequate screening between the subject dwelling houses.

The proposed works are not considered to unreasonably minimise the safety or visual privacy for any adjoining property.

- **Stormwater**

The proposed development is considered to result in adverse stormwater impacts on adjoining properties.

Comment:

The development retains the required Landscaped Open Space requirement. This requirement is to ensure there is the adequate soft surface to provide for the infiltration of water to the water table, the reduction of stormwater runoff, and assistance with stormwater management. Councils requirements regarding reducing stormwater have been met via conditions of consent and Landscape Open Space requirements,

In response to the exacerbated stormwater issues caused by the significant downward slope from the subject site toward the sites below and to mitigate the impact of the development, the following conditions have been recommended.

Condition 6- Stormwater Disposal reads as follows:

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the proposed paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the a dispersion system within the proposed turfed terrace area to ensure no concentration of flows.

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

Condition 28- Stormwater Disposal reads as follows:

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.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><u>Additional Information Comment 21/12/2022</u></p> <p>This DA includes a request to remove a 30m tall <i>Eucalyptus punctata</i>. The initial Arborist's report did not include a detailed assessment of the tree's health, but noted some potential issues. Additional</p>

Internal Referral Body	Comments
	<p>information was requested for internal investigations into the tree to establish extent of any decay.</p> <p>A detailed Advanced Level 3 Tree Risk Assessment has been provided (Advanced Level 3 Tree Risk Assessment by Arboricultural Tree Services P/L) which has established:</p> <ol style="list-style-type: none"> 1. The presence of the decay fungus <i>Armillaria luteobubalina</i> and 2. A significant extent of internal decay <p>The tree is assessed as a High Risk with the likelihood of failure Probable and the consequences of failure High.</p> <p>In consideration of the findings of the detailed investigations, no objections are now raised to removal of the tree subject to replacement with 2 x <i>E. punctata</i> in addition to the trees proposed in the Landscape Plan.</p> <p><u>Original Comment</u></p> <p>The application seeks consent for retaining walls, decking, associated landscape works and tree removal.</p> <p>The Arborist's Report prepared by Peake Arboriculture and Landscape Plans prepared by Serenescapes are noted.</p> <p>The Arborist's Report indicates that two trees are required to be removed to accommodate the proposed works.</p> <p>One tree is an exempt species, <i>Brachychiton acerifolia</i>, and the other a non-exempt tree, <i>Eucalyptus punctata</i>.</p> <p>Removal of the exempt <i>B. acerifolia</i> is not objected to.</p> <p>Concern is raised regarding the proposed removal of the <i>E. punctata</i>.</p> <p>The site is mapped on Council's GIS system as Pittwater Spotted Gum Forest Endangered Ecological Community and mapped on the NSW DPI Biodiversity Values Map. <i>E. punctata</i> is a species associated with Pittwater Spotted Gum Forest. The tree is indicated to be 26m height.</p> <p>The Arborist's Report notes that decay was noted at the base of the tree, however no detailed assessment of the extent of decay and structural compromise that the tree is susceptible to has been provided.</p> <p>The Report assigns the tree a Medium Retention Value. Assessment of the tree against the IACA Tree Retention Matrix provided in the Report would suggest that the tree should be assigned a High Retention Value, the tree having a Safe Useful Life Expectancy of 10-</p>

Internal Referral Body	Comments
	<p>40 years, being an indigenous species, being part of an Endangered Ecological Community, being visually prominent and being appropriate for the site conditions.</p> <p>Removal of the tree based on the information provided is not supported in consideration of the above.</p> <p>It is recommended that assessment of the extent of decay and structural impacts of any decay be assessed via a resistograph test or similar by a Consulting Arborist with minimum qualification AQF Level 5 and that all avenues to enable retention of the tree be investigated by the Arborist.</p> <p>At this stage, the proposal is not supported with regard to landscape issues.</p>
NECC (Bushland and Biodiversity)	<p><u>Additional Information Comment 22/12/2022</u></p> <p>This DA includes a request to remove a 30m tall Eucalyptus punctata and further detailed assessment indicates that the tree is assessed as a High Risk with the likelihood of failure Probable and the consequences of failure High. Council's Landscape team have approved its removal and have conditioned replacement with 2 x E. punctata in addition to the trees proposed in the Landscape Plan.</p> <p>Based on this fact the proposal and the findings of the BDAR are acceptable, a Serious and Irreversible Impact will not result, and the recommended Biodiversity credit obligation and additional impact mitigation measures will be included within suitable consent conditions.</p> <p><u>Original Referral Comments</u></p> <p>The submitted Biodiversity Development Assessment Report (Kingfisher 2022) considered the measures implemented in order to avoid and minimise impacts of the development, as required in accordance with the Biodiversity Conservation Act 2016 and the Biodiversity Assessment Method. The BDAR is provided as the direct impacts of the proposal will result in the clearing of native vegetation within the area mapped on the Biodiversity Values Map.</p> <p>Kingfisher state that a 'Do nothing' option would not save the Grey Gum as, according the Arborist Report, it has a fungal infection that makes it unsafe to leave in situ. This is unclear and the Landscape Referral does not support the removal as the Arborist did not undertake a detailed assessment of the extent of decay and structural compromise that the tree is susceptible to. In addition, Kingfisher state that the proposed location of the development, which includes construction of retaining walls and a boardwalk. cannot be located elsewhere on the site. The loss of native vegetation and fauna habitat, including Tree 7 and Tree 4 appears to result from the retaining wall construction that is proposed in order to provide a level</p>

Internal Referral Body	Comments
	<p>lawn area. Development located along the western boundary, where there is evidence of recent vegetation removal, may be an alternate location that will avoid and minimise impacts, while allowing the retention of Tree 7.</p> <p>If the removal of Tree 7 is justified, then the findings of the BDAR are acknowledged, including the current condition of the native vegetation community on site, the direct impact on Pittwater Spotted Gum Forest (PSGF) (PCT1214) that will result, the range of proposed mitigation measures, and the calculated ecosystem and species credit species credits that will be retired to offset the impacts of the development. In relation to payment into the Fund to offset any credit obligation, the recent changes to the method used to calculate the cost of biodiversity credits should be noted, and the likely increase in offset costs discussed between the applicant and the accredited assessor.</p>
NECC (Development Engineering)	<p>The proposal does not require on-site stormwater detention (OSD) as the proposed impervious area does not exceed 50 square meters. A suitable condition for the control of stormwater from the proposed works has been provided. The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>

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 (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	4.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

Detailed Assessment:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

Comment:

The proposed development is considered low-impact and is not expected to have an unreasonable adverse effect on the existing environment.

- To ensure that residential development does not have an adverse effect on those values.

Comment:

The proposed development aligns with the above-mentioned values.

- To provide for residential development of a low density and scale integrated with the landform and landscape.

Comment:

The proposed works are considered to provide residential development of a low density and scale integrated with the landform and landscape

- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

Comment:

The development is considered to encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

7.6 Biodiversity protection

Detailed Description:

The development proposed the removal of a non-exempt tree- Eucalyptus Punctata (Grey Gum)- which raised concern from Councils Landscape and Bushland and Biodiversity officers. The submitted Arborist report did not include a detailed assessment of the tree's health despite noting some potential issues.

A Request for Further Information letter was sent to the applicant, dated 21 November 2022, requesting an Advanced Level 3 Tree Risk Assessment be submitted by a Consulting Arborist with a minimum qualification AQF Level 5 that assesses the extent of decay and structural impacts of any decay of the Eucalyptus Punctata .

A Tree Risk Assessment prepared by Arboricultural Tree Services, dated November 2022 was received. This report showed the presence of the decay fungus Armillaria luteobubalina and a significant extent of internal decay, meaning the tree was assessed as high risk.

As such, no objections were raised by Councils Landscape or Bushland and Biodiversity officers for the removal of the Eucalyptus Punctata.

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. As such, it is considered that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment and architectural plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*

- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or
 (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	6.5m	1.7m	73.85%	No
Side building line	2.5m	4.3m (west)	N/A	Yes
	1m	1.3m (east)	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	59.97%	0.05%	No
		65.87% with the addition of the 6% variation	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.17 Scenic Protection Category One Areas	Yes	Yes
D10.1 Character as viewed from a public place	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
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

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

Description of non-compliance

Clause D10.8 Side and Rear Building Line (excluding Newport Commercial Centre) requires that built structures are setback a minimum 6.5m from the rear boundary, 2.5m from one side boundary and 1m from the other side boundary.

The proposal details a low-lying boardwalk that forms a non-compliance within the rear setback.

The proposal presents a 1.7m setback, causing a 73.85% variation

Merit Consideration

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

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

Comment

The proposed works align with the desired future character statement of the Newport locality.

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

Comment

The bulk and scale of the built form is minimised/softened by the proposed vegetation within the rear yard. The proposed bulk and scale of the dwelling aligns with surrounding dwellings.

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

Comment

The proposed development is not considered to impact view sharing, not interrupting any significant view corridors.

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

Comment

The proposed works are appropriately setback from both side boundaries. All built form within the rear setback adequately responds to the steep sloping land 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 proposed works within the rear setback are low-lying and are not considered to introduce excessive opportunity for overlooking, with the bulk and height of the development considered reasonable.

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

Comment

The proposed works forming a non-compliance cannot be seen from the streetscape.

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

Comment

The development is not considered to have any impact on access within the site. The proposed

works are not considered to impact amenity and cannot be seen from the streetscape.

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

Comment

All low-risk mature canopy trees and vegetation are proposed to remain on site. Additionally, 8 species of vegetation are proposed to be planted on site.

- *A landscaped buffer between commercial and residential zones is achieved.*

Comment

The proposal 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

Clause D1.13 Landscaped Area- Environmentally Sensitive Land (Pittwater 21 Development Control Plan) requires that the total soft landscaped area shall total 60% of the site area. Whereby the use of porous materials and finishes is encouraged where appropriate.

The proposal presents a 59.97% total open landscaped area, causing 0.05% variation. With the addition of the 6% variation for functional landscaping, the development proposes 65.97% Landscaped Area.

Merit consideration

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

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

Comment:

The proposal aligns with the desired future character statement of the Newport locality.

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

Comment:

The proposed bulk and scale of the built form is considered adequate.

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

Comment:

No adverse impacts to amenity and solar access is proposed by the development.

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

Comment:

The proposal is considered to enhance vegetation on site, softening the visual impact of the proposed works.

- *Conservation of natural vegetation and biodiversity.*

Comment:

All low-risk, non-exempt mature natural vegetation is proposed to remain on site. Furthermore, vegetation is proposed to be planted within the rear yard.

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

Comment:

Sufficient open landscaped area remains on site to assist with the reduction of stormwater runoff, prevention of soil erosion and the siltation of natural drainage.

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

Comment:

The proposal is considered to align with the rural and 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:

Council considers that there is adequate permeable surfaces on site for assisting with the infiltration of water to the water table, minimisation of runoff and assistance with stormwater management.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$2,333 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$233,265.

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 DA2022/1516 for Retaining walls, decking, associated landscape works and tree removal on land at Lot 1 DP 214956, 30 Herbert Avenue, 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 with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
L-01 Rev C	10 May 2022	Serenescapes Landscape Designs
L-02 Rev C	10 May 2022	Serenescapes Landscape Designs
L-03 Rev C	10 May 2022	Serenescapes Landscape Designs
L-04 Rev C	10 May 2022	Serenescapes Landscape Designs
L-05 Rev C	10 May 2022	Serenescapes Landscape Designs
L-06 Rev C	10 May 2022	Serenescapes Landscape Designs
L-07 Rev C	10 May 2022	Serenescapes Landscape Designs
L-08 Rev C	10 May 2022	Serenescapes Landscape Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report	7 July 2022 revised 11 August 2022	Peake Arboriculture
Geotechnical Report	3 June 2022	Ascent Geo
Tree Risk Assessment	November 2022	Arboricultural Tree 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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	6 June 2022	Serenescapes Landscape Designs

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 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.

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) 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

4. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,332.65 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$233,265.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

5. **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).

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

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

6. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer,

indicating all details relevant to the collection and disposal of stormwater from the proposed paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the a dispersion system within the proposed turfed terrace area to ensure no concentration of flows.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Ascentgeo Consulting Geotechnical Engineers, ref: AG 22222 dated 3 June 2022 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

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

The applicant or Project Ecologist, on behalf of 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 bam.support@environment.nsw.gov.au. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland and Biodiversity and the Certifier must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

10. **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 A must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table A 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 A requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifier prior to release of construction certification.

Table A 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
Pittwater Spotted Gum Forest PCT 1214	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	YES	Pittwater From a location within 100km of the impact site	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion

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

11. **Like for like credit retirement conditions - Species credit retirement conditions**

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table B must be retired to offset the impacts of development.

The requirement to retire credits outlined in Table B 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 B requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifier prior to release of construction

certification.

Table B Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
Chalinolobus dwyeri Large-eared Pied Bat	1	Pittwater

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

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

The approved BDAR includes mitigation measures in section 12, 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.

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 Certifier and Council prior to issue of Construction Certificate.

Reason: To - compliance with the approved BDAR.

13. **Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works.

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

Employment of a Project Ecologist is to provide an engagement letter, which is to be submitted to and certified by the Certifier prior to issue of Construction Certificate.

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

14. **Structural Adequacy and Excavation Work**

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

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

Reason: To provide public and private safety.

15. **Compliance with Standards**

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

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

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

16. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. **Project Arborist**

a) A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with the recommendations of the Arboricultural Impact Assessment dated 11/08/22 prepared by Peake Arboriculture and Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

b) The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

c) Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

d) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment dated 11/08/22 prepared by Peake Arboriculture.

e) All tree protection measures specified 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.

f) The Project Arborist shall provide certification to the Principal Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the

condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

- Note:
- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
 - ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

18. Tree Removal Within the Property

This consent includes approval for the removal of the following tree within the property as recommended in the Advanced Level 3 Tree Risk Assessment by Arboricultural Tree Services P/L:

- i) 1 x Eucalyptus punctata located in the rear yard

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,

- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier 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.

20. Road Reserve

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

Reason: Public safety.

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

The approved BDAR includes mitigation measures in section 12, 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.

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 keep details of compliance, including written and photographic evidence.

Reason: To ensure compliance with the approved BDAR.

22. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

23. **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.

24. **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.

25. **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.

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

26. **Required Tree Planting**

a) Trees shall be planted in accordance with the following:

- i) 2 x *Eucalyptus punctata*, minimum pot size 200mm, located within the grounds of the property.
- ii) All trees as indicated on the approved Landscape Plans

b) Tree planting referred to in a) i) above shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings and other trees.

c) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

27. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate a report prepared by the project arborist shall be submitted to the Principal Certifier assessing the health and impact on all existing trees required to be retained including the following information:

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

Reason: Tree protection.

28. **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.

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

The approved BDAR includes mitigation measures in section 12, 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.

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 Certifier and Council's Bushland Manager 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.

30. **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.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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.

(b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(c) All signage shall be located in a prominent position within the pool area.

Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

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

All ongoing biodiversity-related measures are to be implemented in accordance with the Biodiversity Development Assessment Report (Kingfisher 2022) and these conditions of consent.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

34. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed

French

Michael French, Planner

The application is determined on 16/01/2023, under the delegated authority of:

Am

Adam Richardson, Manager Development Assessments