

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1492
----------------------------	-------------

Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 23 DP 12837, 21 Nooal Street NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house including a secondary dwelling
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Benjamin Paul Walsh Lisa Mary Walsh
Applicant:	Drafting Help Pty Ltd

Application Lodged:	24/08/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	02/09/2021 to 16/09/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 80,000.00
---------------------------------	--------------

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks approval for the construction of a detached secondary dwelling and alterations and additions to an existing dwelling. The new works will comprise the following:

- Removal of entry and bed 1 deck,
- Erection of a single storey secondary dwelling containing one bedroom, bathroom, kitchen and living space.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - D10.4 Building colours and materials

Pittwater 21 Development Control Plan - D10.12 Landscaped Area - General

SITE DESCRIPTION

Property Description:	Lot 23 DP 12837 , 21 Nooal Street NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one allotment located on the eastern side of Nooal Street.</p> <p>The site is regular in shape with a frontage of 12.19m along Nooal Street and a depth of 39.625m. The site has a surveyed area of 480.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two storey residential dwelling with an attached garage.</p> <p>The site slopes across, down from the southern side boundary to the northern side boundary.</p> <p>The site has lawn area at the front and rear, two large trees at the front of the site. There are no known threatened species on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one to two storey residential dwellings of varying</p>

architectural styles.

Map:



SITE HISTORY

A search of Council's records has revealed the following:

A327/66

Additions

Approved - 27/04/1966

1915/81

Additions

Approved - 22/06/1981

Application DA2021/0352

Alterations and additions to a dwelling house including secondary dwelling

Withdrawn - The application was withdrawn due to issues raised by the assessing officer in regards to non-compliance with the Landscaped open space and side boundary envelope.

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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration'	Comments
of the site for the development	
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 02/09/2021 to 16/09/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Mark Brian Van Kool	19 Nooal Street NEWPORT NSW 2106
Mrs Sandra June Van Kool	19 Nooal Street NEWPORT NSW 2106

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

- Access to Sunlight.
- Noise.
- Private open space.
- Holiday rental.
- Incorrect details on the plans, inaccuracies with the Statement of Environmental Effects (SEE) and illegal works.
- Landscaped area.
- Privacy.
- Landscaping and landscape plan.
- No drainage or stormwater plans provided.
- Car parking.
- Colours and materials.
- Laundry and clothes drying line.
- Out of character with Nooal Street and creating a precedent.
- Compliance with the NSW housing code for affordable housing.
- Dilapidation Report.

The matters raised within the submissions are addressed as follows:

- **Access to Sunlight**

The submission states *"This is 2 levels and blocks most sunlight to our house and backyard for most of the day during winter. The addition of the secondary dwelling increases the house wall length another 7.65m to 24.45m. This ensures that our whole property has development to the North of it. The secondary dwelling is one level, however it is split level, and the roof is setback less than 1m. The secondary dwelling addition and Council's proposed tree planting and screening will block the only sunlight to our bedrooms and front verandah - the only Northern light we currently receive during winter."*

The submission also states that they do not believe that 3 hours of sunlight would be available to the private open space at the rear of No. 19 Nooal Street and the that proposal will result in the loss of all of winter sun at the front of the site.

Concern was also raised with the Landscape referral comments which recommend screen planting along the southern boundary of the site between the proposed secondary dwelling and the dividing fence and requirement for two trees to be planted at the front of the site and potential overshadowing to No. 19 Nooal Street as a result. The submission also requested shadow diagrams which included the shadow impact of the Council's suggested trees when fully grown.

Comment:

The location and the height of the development will not result in unreasonable overshadowing to the adjoining property at No. 19 Nooal Street in accordance with part C1.4 Solar Access of the PDCP. While the proposal will result in additional overshadowing to the front yard and the front bedroom windows along the northern elevation, the orientation of the site and the location and design of the proposal, will not result in overshadowing to the private open space and the principal living room windows for more than three hours between 9am and 3pm on June 21. The development therefore meets the requirements of Part C1.4 Solar Access of the PDCP.

To be compliant with Clause C1.1 (Landscaping) of the PDCP, the site is required to have at least two canopy trees within the front yard, and one canopy tree within the rear. As the proposal seeks to remove the existing trees within the front yard, all of which are exempt, both Council's Landscaping and the Biodiversity teams have requested replacement tree planting. These trees are to be located within the front building line which has the most available space on the site. While it is noted that there is concern from the occupants of No. 19 Nooal Street with respect to additional overshadowing caused by the landscaping. It should be noted that the heights of vegetation the neighbour raises concern with are not likely to be achieved due to site conditions, limited space, the presence of retaining walls and new structures.

Notwithstanding, the Planning Principal established by the NSW Land and Environment court in *The Benevolent Society v Waverley Council [2010] NSWLEC 1082* stipulates that vegetation is not to be included in shadow diagrams unless it forms a dense fence-like wall, as the proposed trees are not currently on the site they cannot be included in the shadow diagrams. The applicant has provided shadow diagrams that meet the current Lodgement requirements. The assessing officer has reviewed the shadow diagrams for accuracy and determined that they meet Lodgement requirements.

- **Noise**

The submission requests that the bathroom window and the front entrance of the secondary dwelling be located away from the shared boundary with No. 19 Nooal Street to minimise any unreasonable noise impacts on the adjoining property. The submission references Clause C1.6

Acoustic Privacy of the PDCP which requires noise sensitive rooms such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like. The submission also mentions that the dwelling already creates excessive noise and the additional deck out the front of the secondary dwelling is of concern.

Comment:

The proposed development is not expected to produce noise above normal residential use. The location of the front door meets the requirements of PDCP as it is directed away from noise sensitive rooms being located towards the street. The proposed bathroom window is opposite the bedroom window of no. 19 Noaal Street. A condition will be included in the consent relocating the window to the eastern elevation. The proposed screen planting condition along the southern boundary will help mitigate noise omitted from the secondary dwelling.

- **Private Open Space**

The submission raises concern about the size and location of the private open space of the proposed secondary dwelling and states "*The private open space of the proposed secondary dwelling is of concern due to its location, but also its size. If there is not enough space for their use, will they use the front yard of the property, hence creating unwanted noise to neighbouring properties? The deck proposed is only 1m wide. The DCP at C1.7 Private open space, says that private open space should be 3m in width.*"

Comment:

The PDCP requirement for private open space referred to in the submission is for dwelling houses, attached dwellings, semi-detached dwellings, and dual occupancies. The PDCP requirement for a secondary dwelling is that an informal sharing arrangement for open space between occupiers is encouraged. The secondary dwelling does not require its own private open space and can utilize the existing private open space of the principal dwelling.

- **Holiday rental**

Concern is raised that the dwelling is already being used as a holiday rental for 13 people and the proposed secondary dwelling will allow for more people to stay at the property, adding to amenity impacts such as noise, parking and privacy to the adjoining property at No. 19 Noaal Street and the surrounding neighborhood.

Comment:

The use of the site as a holiday rental is not a planning consideration. The proposal is for the construction of a secondary dwelling, which is permissible on the site as it is located with the R2 Low Density Residential zoning. Noise, parking and privacy are discussed elsewhere in the report. Any matters concerning noise and the use of the property should be appropriately directed the Council's Compliance Department for further investigation.

- **Incorrect details on the plans, inaccuracies with the Statement of Environmental Effects (SEE) and illegal works**

The submission raised concern that the plans were not accurate and the SEE was incorrect. The plans of the principal dwelling do not show the correct location of windows and internal walls that have been altered without approval. These works have resulted in amenity impacts to the adjoining property at No. 19 Noaal Street and that further unapproved works would take place once the secondary dwelling had been approved.

Other concerns raised are that the plans are misleading as the measurements to the boundaries are taken from the wall of the proposal and not the eaves which are much closer and would

mean that the proposal does not comply with the side building line requirement of the PDCP. The submission also requests that the proposal be required to use the greater side building line requirement of 2.5m.

It is also stated that the 'Statement of Environmental Effects' incorrectly concludes that there is likely to be no detrimental effect on the surrounding natural and built environment. If you take into account noise and sunlight impact alone, this statement is incorrect as we will be detrimentally affected.

Comment:

Council undertakes their own assessment of the application including measurements to determine compliance with the PDCP and PLEP. In this instance, the plans and SEE provided with the application along with a site inspection conducted by Council provided a satisfactory level of information for the assessment of the application and to understand the full impacts on the neighbouring properties. While there have been some minor errors these do not impact on the assessment of the application.

The proposal is for the construction of a detached secondary dwelling and the removal of decking at the front of Bedroom 1 and does not include any works to the existing dwelling, including the garage. A condition will be included in the consent stating that approval is only for works associated with the secondary dwelling. If there are concerns regarding illegal works being undertaken on the site, a request may be submitted with Council's Compliance Department to investigate.

The development is measured from the wall and not the eaves. The proposal is setback 1.2m - 1.3m from the southern boundary shared with No. 19 Noaal Street. The PDCP does not stipulate which side of the site is to have the greater side building line setback. The applicant has aligned the proposal with setback of the principal dwelling and meets the requirements of the control.

- **Landscaped Area**

The submission states 'The DA plans note a soft landscape area of 217.60sqm - 45% of the site area'. The DCP requires 40% landscaped area. The 'soft and hard' surfaces diagram also shows the space to the South and North of the house as landscape area, although they are concrete. It does not show the concrete area at the East of the house. The reduction in hard surfaces between this submission and the earlier submission has been achieved by removing decks. However there is not a removal of doors that lead onto the raised deck in the existing building, which would indicate the decking between the 2 buildings will be rebuilt after the building is finished. Therefore, the landscaped area is more likely less than 40%, and clearly does not meet landscaped area requirements.'

Comment:

The PDCP requires 50% landscaping in R2 Low Density Residential areas. The proposal provides 45.27% soft surface landscaping and meets the requirement of the landscape variation, which allows for impervious areas less than 1m in width (e.g. pathways and the like); for single dwellings on land zoned R2 Low Density Residential and, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1m above ground level (existing) to be included in the calculation. With the inclusion of the variation the proposal has a total landscaped area of 51.34%. The concern raised regarding the decking being replaced once the application has been approved is not something that can be covered by the assessment of the application. Council can not presume this will occur. The application complies with the

requirement for landscaping on the site.

- **Privacy**

The submission has raised issues with privacy on the site as a result of illegal works to the principal dwelling.

Comment:

The privacy issues raised in the submission as a result of works undertaken to the principal dwelling do not form part of this assessment. The proposed secondary dwelling has been assessed against part C1.5 Visual Privacy and meets the requirements and controls of the PDCP. A condition is recommended requiring a privacy screen along the southern edge of the front deck to mitigate any overlooking of the bedroom windows of No. 19 Nooal Street and provide privacy to the occupants of the secondary dwelling. Existing privacy concerns as a result of unapproved development can be reported to Councils Building Compliance department to investigate.

- **Landscaping and landscape plan**

The submission raises concern with the removal of three trees from the site and the impact to existing wildlife. The submission also raises concern with the Landscape referral comments and recommended conditions regarding replacement planting and screen planting along the southern boundary and the impact this would have to No. 19 Nooal Street in regards to overshadowing, reduced airflow and access for emergency services. The submission requested a landscape plan to be provided.

Comment:

The proposal has been reviewed by Councils Landscape officer and Bushland and Biodiversity team who have raised no issues with the proposed tree removal subject to conditions, being replacement planting. A landscape plan has not been requested as Councils Landscape officer has been able to assess the proposal without the need for a landscape plan.

Concern regarding screen planting along the southern boundary is to have a maximum height of 2m. The screen planting will be 0.2m higher than the existing boundary fence which is 1.8m. The height and location of the screen planting and will not contribute to unreasonable overshadowing of the adjoining property. Airflow and access for emergency services is not a planning consideration. However, the setback between the dwelling of no. 19 Nooal Street and the dividing fence should be sufficient to maintain airflow to no. 19 Nooal Street and emergency services will have been able to gain access around the north, east and west elevation of the secondary dwelling.

- **No drainage or stormwater plans provided**

The submission raises concern that the proposal had not provided full drainage and storm water drawings and was very concerned that if stormwater was not carefully managed it could affect the front yard of No. 19 Nooal Street and create erosion problems on their property.

Comment:

The proposed development is for alterations and additions to an existing dwelling, as such the proposal does not require an upgrade to the existing stormwater system. A condition is included in consent requiring the applicant to demonstrate that the stormwater drainage systems for the development have been designed, installed and maintained in accordance with Council's Water Management for Development Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of Construction Certificate and

the Occupation Certificate.

- **Car parking**

The submission raised concern regarding where the occupants of the secondary dwelling would park as the current driveway on the site was long and narrow and would not allow for multiple cars to park in tandem and that the 'The secondary dwelling is seeking approval through a Development application, not the 'Housing code- exempt and complying development' code. Therefore, it is expected that council would take into account available car parking.'

Comment:

Additional parking on the site is not required to be considered for a secondary dwelling pursuant of the State Environmental Planning Policy Affordable Rental Housing (SEPP ARH). Existing parking onsite and street parking is considered sufficient for principal dwelling and the secondary dwelling.

- **Colours and materials**

The submission states *"The DA drawings show the new dwelling a light grey and white colour. There appears to be no colours and materials schedule on the drawings and submission. The Newport area requires colours that are 'dark and earthy', so we are not sure how this meets the requirements of the DCP. As the development is so close by, with a gable roof reflecting possible glare, we are concerned the colours are too light."*

Comment:

The proposal is to be of the same colours as the principal dwelling. While this does not meet the requirement of the PDCCP it is consistent with the majority of houses in the street which are not dark and earthy tones. A standard condition will be included in the consent requiring the roof to be of a medium to dark colour range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties.

- **Laundry and clothes drying line**

The submission noted that there was no laundry or clothes drying line shown on the plans.

Comment:

The laundry is located on the plans labeled 'MW', a condition will be included in the consent making sure that adequate laundry facilities are provided. Secondary dwellings are not required to provide clothes drying areas. The secondary dwelling can utilize the existing clothes drying area already on the site.

- **Out of character with Nooal Street and creating a precedent**

The submission states *"Nooal Street has small to average blocks and single dwellings, with no secondary dwellings to front yards. The addition of a secondary dwelling within the front yard sets a precedent which changes the nature of Nooal street. This is because it creates living spaces to the street, which essentially reduces landscaped space. This would change the character of Nooal street, as it would other streets in the Newport area."* and *"Our concerns are also that in approving the development of this type, that does not meet boundary set back limits, that denudes the block of all trees without having a landscaping plan or the space to replace them, that does not meet hard / soft surface requirements, that has inadequate parking for the numbers of cars that will be on the property, will create a precedent in the area and will drastically change the characteristics and charm of Newport."*

Comment:

The proposal is 'low density' in nature as it comprises of a principal dwelling and a secondary dwelling, both uses being permitted in the R2 Low Density Residential zone. The

proposal achieves compliance with the desired future character of the Newport locality. The secondary dwelling has been designed to compliment the principal dwelling and when viewed from the street appears as an addition to that structure. The proposal complies with the height requirement of the PLEP and the front, rear and side building setback requirements as well as the landscaped area control of the PDCP. Overall, it is considered that the proposal is not out of character for the street or the Newport locality.

- **Compliance with the NSW housing code for affordable housing**

The submission raised the following "*The secondary dwelling doesn't meet requirements of the NSW housing code for affordable housing due to it being over 3 levels, and in the front yard of the property.*"

Comment:

A review of the application conducted by the assessing office has found that the proposal complies with the relevant controls of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

- **Dilapidation Report**

The submission requested a dilapidation report to protect the property at No. 19 Nooal Street.

Comment:

A Dilapidation Report will be included as a condition of consent.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Landscape Officer	<p>This application is for the alterations and additions to an existing residential dwelling, as well as the construction of a new secondary dwelling at the front of the site.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D10.12 Landscaped Area - General <p>The Statement of Environmental Effects provided with the application</p>

Internal Referral Body	Comments
	<p>notes that three trees are required to be removed as a result of proposed works. Upon review of the Architectural Plans provided, these three trees are all located within the front setback of the site. It is noted that no Arboricultural Impact Assessment has been provided.</p> <p>Upon further review, one of these three trees appears to be a <i>Jacaranda</i> sp. which is considered an exempt species. The remaining two trees, although not exempt species, they are considered exempt as they have been identified as being below 5m in height. As a result, these three trees may be removed without Councils approval. It is noted that all trees located within neighbouring properties as well as the road reserve are considered prescribed, irrespective of species, and must therefore be protected and retained throughout proposed works. Any negative impacts towards both the short-term and long-term health of these trees would not be supported. The retention of these trees is necessary to comply with control B4.22, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>Although these trees proposed for removal are exempt, concern is raised as the site now clear of all vegetation and trees. These trees provided valuable landscape amenity for the site, but also valuable privacy between the adjoining property to the south. In addition, this vegetation was a valuable tool in mitigating the bulk and scale of the built form, all of which are key objectives of controls C1.1 and D10.12. Due to the removal of this vegetation, the proposed secondary dwelling now has the opportunity to visually dominate the streetscape, and in turn negatively impact the character of the area which is not a desired or supported outcome. It is noted in the Statement of Environmental Effects that replacement planting is to be provided, however no Landscape Plan has been provided, nor have any details regarding the proposed works been provided. For this reason, the following landscape treatments are recommended to ensure privacy is achieved, alongside successful built form mitigation. Screening planting is required to be planted adjacent to southern boundary, alongside canopy trees within the front setback. Rather than the need for a Landscape Plan to be submitted, this planting requirement can be addressed through conditions of consent. This planting is necessary to comply with controls C1.1 and D10.12, as key objectives of these controls seek to ensure "landscaping enhances habitat and amenity value", "landscaping reflects the scale and form of development", as well as that the built form is softened and complemented by landscaping.</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the implementation of the required tree and shrubs planting.</p>
NECC (Bushland and Biodiversity)	Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity

Internal Referral Body	Comments
	<p>related provisions:</p> <ul style="list-style-type: none"> Pittwater 21 DCP cl. B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land Coastal Management SEPP 2018 cl. 11 Development on land in proximity to coastal wetlands or littoral rainforest <p>The Development Application is for the construction of a detached secondary dwelling and alterations to the existing dwelling. The proposed development requires the removal of three (3) trees which are exempt by Council and therefore do not require consent for their removal. Council's Landscape referral team have conditioned the requirement for replacement plantings which are required due to the loss of most vegetation within the site. As such, Council's Biodiversity referrals team are satisfied that the proposed development complies with the above listed biodiversity provisions, subject to these conditions of consent.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>As this site drains into the Pittwater waterway, the development must not significantly impact on the biophysical, hydrological or ecological integrity of these waters, or on the quantity and quality of surface and ground water flows to the creek or lagoon.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover reestablished.</p> <p>This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of the Pittwater waterway if conditions are adhered to.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

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

Division 2: Secondary dwellings

Clause 19: Definition

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

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

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

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

Comment

The proposed use is defined under PLEP 2014 as Secondary Dwelling.

Clause 20: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is	

permissible on the land:

(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	Consistent. The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under PLEP 2014.
--	---

Clause 21: Development to which this Division applies

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

Clause 22: Development may be carried out with consent

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

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The development consists of a principal dwelling and secondary dwelling.
(3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	a) The former Pittwater LGA does not have an FSR control. b) The total floor area of the secondary dwelling is 30.7m ² .
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	The site has an area of 480.6m ² . Two car parking spaces will be provided for the dwelling.

Note: A consent authority may consent to development to which this Division applies whether or not

the development complies with the standards set out in sub-clause (4).

Clause 24: No subdivision

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

Conclusion

The proposal for secondary dwelling meets the requirements above and is therefore worthy of support.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1187581S_02 dated 17 August 2021).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	Secondary dwelling - 3.6m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	8.295m	N/A	Yes
Rear building line	6.5m	unaltered	N/A	Yes
Side building line	North - 2.5m	6.187m	N/A	Yes
	South - 1m	1.293m	N/A	Yes
Building envelope	North - 3.5m	Within envelope	N/A	Yes
	South - 3.5m	Within envelope	N/A	Yes
Landscaped area	50% (240.3m ²)	45.27% (217.6m ²) with 6% variation - 51.34% (246m ²)	9.46% N/A	No 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
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	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
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	No	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.12 Landscaped Area - General	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D10.4 Building colours and materials

Description of non-compliance

The proposed secondary dwelling is to match colours and materials of the existing dwelling with a light

gray cladding and white trim. The use of the light colours is non-compliant with the requirement for dark and earthy tones under this control. However, the control allows for a variation for lighter coloured external walls to be considered where the outcomes of the control are also achieved.

Merit Assessment

Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

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

Comment:

The proposed development is consistent with the desired future character of the Newport Locality.

- *The development enhances the visual quality and identity of the streetscape.*

Comment:

The Nooal Street streetscape does not conform to a consistent colour scheme and generally consists of dwelling houses with lighter toned external walls and roofs, therefore, the proposed development enhances the visual quality and identity of the streetscape by matching the existing character.

- *To provide attractive building facades which establish identity and contribute to the streetscape.*

Comment:

The proposed colours contribute to the identity of the area in that they are consistent with the existing dwelling and surrounding developments, and are of a modern, beachside style.

- *To ensure building colours and materials compliment the visual character of its location with the natural landscapes of Pittwater.*

Comment:

The proposed building colours and materials compliment the visual character of the location within the natural landscapes of Pittwater by matching the existing colour scheme of the principal dwelling.

- *The colours and materials of the development harmonise with the natural environment.*

Comment:

Although the colours and materials of the proposed secondary dwelling are lighter toned, it is considered that the proposed development is in harmony with the natural environment.

- *The visual prominence of the development is minimised.*

Comment:

The proposed colours are consistent with the existing dwelling house and surrounding developments, thereby retaining consistency with existing visual prominence.

- *Damage to existing native vegetation and habitat is minimised.*

Comment:

The proposed development minimises damage to native vegetation and habitat and the required replacement planting to the site will add to native vegetation and habitat on the site.

- *The use of materials with low embodied energy is encouraged.*

Comment:

The development application is supported by a BASIX Certificate that demonstrates the proposed development is suitably energy efficient.

- *New buildings are robust and durable with low maintenance requirements.*

Comment:

The proposed secondary dwelling will use new materials and colourbond roof sheeting which are both robust and durable, and have low maintenance requirements.

- *In the Newport Commercial Centre, roofs of lighter colours are permitted to improve the thermal performance of the roof system.*

Comment:

Not applicable. The subject site is not located in the Newport Commercial Centre.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / PDCP 21 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.

D10.12 Landscaped Area - General

Description of non-compliance

The control requires a minimum of 50% (240.3m²) of the site to be landscaped area.

The proposed development provides 217.6m² of landscaping. With the 6% variation the proposal provides 51.34% (246m²) landscaped area.

Merit consideration

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

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

Comment:

The proposed development is consistent with the desired future character of the Newport locality.

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

Comment:

The built form is minimised as the proposal is a single storey structure that complies with the building envelope, side, front and rear PDCC controls. Additionally, the proposal will continue to provide sufficient landscape buffers along the front and side boundaries, which will assist in visually breaking down the built form.

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

Comment:

No windows are proposed along the side boundaries that will result in overlooking of the private open space or habitable rooms of the adjoining properties. The proposal is also a single storey addition that complies with part C1.6 Solar Access of the PDCC. It is considered that there is no unreasonable amenity impacts to arise as a result of the development.

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

Comment:

The large street tree will be maintained and will screen the development till the recommended replacement planting and screen planting is established. Once established the vegetation on the site will sufficiently screen the proposal and visually reduce the built form.

- *Conservation of natural vegetation and biodiversity.*

Comment:

Council's Bushland and Biodiversity Officer has reviewed this application and raised no concern with regards to the proposed works, subject to conditions.

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

Comment:

It is considered that the site will have adequate areas to assist with stormwater management, as soft surface is provided to the front and rear boundaries of the site. A condition will also be included in the consent requiring the proposal to be connected to the existing stormwater system, with compliance being provided to the certifying authority.

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

Comment:

Three exempt trees are proposed to be removed to accommodate the proposal. A condition is recommended providing replacement planting at the front of the site. The bushland character of the area will be maintained as trees to be a exempt species and the replacement planting species will be more inline with the character of the area.

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

Comment:

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

In light of the above, the proposal is considered to satisfy the outcomes of the control, thereby allowing for a 6% variation (additional 28.8m²) to be included as landscaped area, bringing the total to 246m² or 51.34%

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP 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 2021

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

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP

- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/1492 for Alterations and additions to a dwelling house including a secondary dwelling on land at Lot 23 DP 12837, 21 Nooal Street, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
SP - Issue No. A	18/08/2021	Drafting Help
5 - Issue No. A	18/08/2021	Drafting Help
6 - Issue No. A	18/08/2021	Drafting Help
7 - Issue No. A	18/08/2021	Drafting Help
10 - Issue No. A	18/08/2021	Drafting Help
12 - Issue No. A	18/08/2021	Drafting Help
13 - Issue No. A	18/08/2021	Drafting Help
14 - Issue No. A	18/08/2021	Drafting Help
17 - Issue No. A	18/08/2021	Drafting Help
18 - Issue No. A	18/08/2021	Drafting Help
19 - Issue No. A	18/08/2021	Drafting Help
20 - Issue No. A	18/08/2021	Drafting Help
21 - Issue No. A	18/08/2021	Drafting Help

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 1187581S_02	17 August 2021	Liv Smart Solutions

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
B1 - Issue No. A	18/08/2021	Drafting Help

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

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

2. Prescribed Conditions

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

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

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

the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 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. **Security Bond**

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

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

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

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

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

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

5. **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 Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

6. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

7. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- Window W2 located off the BATH room on the South Elevation is to be relocated to the East Elevation.
- A Laundry is to be provided within the Secondary Dwelling.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

8. **Compliance with Standards**

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

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

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

9. **External Finishes to Roof**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of the Construction Certificate.

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

10. Sydney Water "Tap In"

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

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

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

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

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

11. Waste Management Plan

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

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

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

12. Privacy Screen

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost southern edge of the deck located off the KITCHEN/LIVING/DINING as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. 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.

14. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of the property listed below, externally, including walls, roof, structural members, dividing fence and other similar items.

Property: No. 19 Nooal Street, Newport

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

16. **Tree and Vegetation Protection**

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

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.

17. Condition of Trees

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

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

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

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

Reason: Protection of trees.

18. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by DH Drafting Help prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

19. 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.

20. Waste Management during Development

The reuse, recycling or disposal of waste during works must be done generally in accordance

with the Waste Management Plan for this development.

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

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

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

21. Required Tree Planting

Trees shall be planted in accordance with the following:

- i) at minimum, 1x small native tree is to be planted in the grass step at the front of the site, between the western boundary and the secondary dwelling access stairs. Suggested species include: *Angophora hispida*, *Ceratopetalum gummiferum*, or *Melaleuca linariifolia*,
- ii) at minimum, 1x locally native canopy tree is to be planted within the front setback between the western boundary and the secondary dwelling. Suggested species include: *Angophora costata*, *Banksia integrifolia*, or *Eucalyptus haemastoma*.

Tree planting 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.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Pittwater Ward*: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

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

Reason: To maintain environmental amenity.

22. Required Screen Planting

Screen planting shall be planted in accordance with the following:

- i) at minimum, 8x screening shrubs are required to be planted adjacent to the southern boundary within the front setback of the site. Suggested species include: *Acmena smithii* 'Firescreen', *Acmena smithii* 'Minor' or *Syzygium* 'Cascade'.

The selected planting is to comprise of native species capable of attaining a height of 2 metres at maturity.

Plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Reason: To maintain environmental amenity.

23. Replacement of Canopy Trees

At least 2 locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with Council's Native Gardening Guide.

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

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

24. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

25. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

26. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

27. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority 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.

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

28. Landscape Maintenance

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

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

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

Reason: To maintain local environmental amenity.

29. Undesirable Trees

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

30. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

31. **Consent for Secondary Dwelling**

Consent is granted only for the proposed works under this development application - that is, the Secondary Dwelling and the removal of the deck located off the BED 1.

Reason: To ensure consent is granted for the proposed works only.

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

Signed



Julie Edwards, Planner

The application is determined on 11/11/2021, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager