

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1005
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 16 DP 244776, 49 - 51 Annam Road BAYVIEW NSW 2104
Proposed Development:	Construction of a Dwelling House including a swimming pool
Zoning:	R5 Large Lot Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Farbod Danesh
Applicant:	Farbod Danesh

Application Lodged:	07/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	14/07/2021 to 28/07/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 973,060.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the construction of a new dwelling. In detail, this involves:

Ground Floor

- Gym
- Carports

First Floor

- Open plan living
- Five bedrooms
- Three balconies

- Bathrooms

Second Floor

- Open plan dining/living
- Bedroom/bathroom

External

- Swimming Pool and Spa
- Landscaping
- Removal of vegetation

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 - 4.3 Height of buildings

SITE DESCRIPTION

Property Description:	Lot 16 DP 244776 , 49 - 51 Annam Road BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site consists of an allotment located on the north-western side of Annam Road.</p> <p>The site is regular in shape with a frontage of 45.41 and a depth of 89.1m. The site has a surveyed area of 4047m².</p> <p>The site is located within the R5 Large Lot Residential zone</p>

and is currently vacant.

The site is densely vegetated, and has a slope from the rear down to the front of the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential development.

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 vacant 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	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

Section 4.15 Matters for Consideration	Comments
	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 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 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider 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 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 of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and

Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Building Code and Bushfire hazard Solutions, dated 30 August 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 14/07/2021 to 28/07/2021 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 1 submission/s from:

Name:	Address:
Mrs Jenny Schulenburg	Address Unknown

The matters raised within the submissions are addressed as follows:

- **Concerns with access.**

Concerns are raised with regard to access to the property for construction, and the obstruction of the access to neighbouring properties via the single way driveway.

Comment:

A condition is imposed to require a new Construction Management Plan prior to the issue of a Construction Certificate. This Management plan must detail how access is maintained to neighbouring properties at all times.

- **Tree removal**

Concern is raised that a majority of trees on the site are to be removed, and that this will not be suitable for the Landscaped character of the area

Comment:

Council's Landscape officer and Biodiversity officer have reviewed the application and are in support subject to conditions. Further, the proposal maintains a compliant amount of Landscaped area to ensure suitable area for planting.

- **Concerns regarding inaccuracy of Flora and Fauna Report including lack of animals found**

Comment:

Council's Biodiversity officer has reviewed the Flora and fauna report and is satisfied, subject to conditions.

- The plans also show two kitchens indicating a Class 2 building. It is claimed the proposal does not follow Class 2 submission guidelines.

Comment:

The proposal is approved as a single dwelling only (i.e. Class 1) under this consent. A condition is imposed to ensure this.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Updated comments: An updated Arboricultural Impact Assessment dated 26 November 2021 is submitted recommending the removal of three additional trees including tree numbers 117, 141 and 158.</p> <p>Tree number 117, as shown in the updated Arboricultural Impact Assessment in figure 1 and figure 2, is within adjoining property and is therefor not part of this application and shall be retained. Both tree numbers 141 and 158 are existing street trees and no objection is raised to removal based on tree health.</p> <p>Previous comments: The application is for the construction of a dwelling house, a swimming pool and spa, ancillary development, and removal of vegetation.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause R5 Large Lot Residential zone, 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 • D2 Bayview Locality <p>The site exists upon R5 Large Lot Residential zone land and the landscape objectives of the zone includes the provision of: residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality; and limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.</p> <p>A Landscape Plan is provided indicating existing trees to be removed and existing trees to be retained, as well as additional landscape treatment with tree canopy replacement and understorey planting. An Arboricultural Impact Assessment is provided assessing a total of 158 existing trees located primarily within the site, and otherwise within the road verge and within adjoining properties.</p>

Internal Referral Body	Comments
	<p>A total of 35 existing native trees are proposed for retention within the site as recommended in the Arboricultural Impact Assessment. Landscape Referral consider than a further 14 native trees located along the front and side boundaries, noted in the report with medium condition and medium significance, whilst existing with dead branches, shall also be retained to soften the built form and integrate the development into the landscape setting, and in particular as viewed from the streetscape. These include existing trees identified as numbers 41, 67, 85, 110, 111, 112, 119, 128, 129, 132, 133, 143, 149, and 152. These existing trees shall have dead branches removed to reduce the fuel load within the site in accordance with bush fire protection recommendations.</p> <p>Of the 158 existing trees assessed, 24 in total are located within the road verge or within adjoining properties. No existing trees within the road verge are permitted to be removed unless approved, and no existing tree within adjoining properties is permitted to be removed. A total of 85 existing trees are required for removal within the property based on the recommendations of the Arboricultural Impact Assessment, noting that most of the native trees have beetle borers and some also have termite infestations which have severely destroyed trunk and branch tissues, and most of the trees have numerous dead branches (or partially dead trunks) as a result of either termite or borer damage, fungus infestations etc.</p> <p>The Landscape Plan provides for a total of 23 native canopy trees as replacement trees, and additionally understorey planting is also proposed to soften the built form of the development.</p> <p>Should this proposal be approved, tree removal is unavoidable based on the development works, as well as the requirements for a asset protection zone to comply with the bushfire protection guidelines under Planning for Bush Fire Protection 2019, and all the site is to be maintained as an Inner Protection Area (IPA), detailed in the NSW Rural Fire Service's document 'Standards for Asset Protection Zones', and any new landscaping must comply with Section 3.7 Landscaping of Planning for Bush Fire Protection 2019.</p>
NECC (Bushland and Biodiversity)	<p>Final Biodiversity Referral (13th January 2022)</p> <p>Council's Biodiversity referrals team note that additional information has been submitted with the application following the updated Biodiversity referral (26th July 2021), including:</p> <ul style="list-style-type: none"> • Vegetation Management Plan (Fraser Ecological December 2021) • Revised Arboricultural Impact Statement (Advanced Arborist Reporting, November 2021) <p>The revised documents have addressed Councils previous comments. Council's Biodiversity notes the justification for the removal of trees, which appear to be outside of the development</p>

Internal Referral Body	Comments
	<p>footprint, for asset protection purposes. However trees 117, 141 and 158 are located within the road verge and must be maintained and protected.</p> <p>Updated Biodiversity Referral (15th October 2021) Council's Biodiversity referrals team note that additional information has been submitted with the application following the original Biodiversity referral (26th July 2021), including:</p> <ul style="list-style-type: none"> • Bushland Removal Plan (Luff Pier, March 2021) • Amended Bushfire Assessment Report (Building Code and Bushfire Hazard Solutions, August 2021) • Amended Statement of Environmental Effects (Strategic Approvals, September 2021) • NSW RFS Determination (NSW RFS, October 2021) <p>Amendments to the proposal include a reduction in the APZ from the entirety of the property as previously recommended by the Bushfire Report and RFS, to the following updated recommendations:</p> <ul style="list-style-type: none"> • <i>"From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the property around the building must be maintained as an inner protection area (IPA), in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019, as follows:</i> <ul style="list-style-type: none"> ○ <i>Northwest for a distance of 11 metres; and,</i> ○ <i>To the property boundaries to the northeast, southeast and southwest".</i> <p>Subsequently, the amendment in the size of the APZ results in a reduction in the total amount of native vegetation proposed for removal, which is now calculated at 0.22ha (Luff Pier, March 2021). As such, the BOS is not triggered as a result of vegetation clearing thresholds and a BDAR is not required to be prepared and submitted with the application.</p> <p>Council's Biodiversity referrals team have calculated the slope for the property to be >18 degrees. As such, Section 3.2.2 of Planning for Bushfire Protection (2019) applies to the development. Pursuant to this clause, <i>"a management plan must be submitted with the DA to provide details on how the APZ will be implemented and maintained.</i></p> <p><i>The management plan should include:</i></p> <ul style="list-style-type: none"> • <i>The mechanical means necessary to complete the management required;</i> • <i>A schedule for maintenance to occur to ensure the APZ is regularly managed; and</i> • <i>The relevant body responsible for maintaining the APZ".</i>

Internal Referral Body	Comments
	<p>This information must be included in the Vegetation Management Plan (VMP).</p> <p>A VMP is required in accordance with P21DCP cl. B4.4(d) and is to be prepared by a suitably qualified person with the aim of identifying and requiring the retention and management of vegetation for conservation purposes for all areas of the site outside the approved APZ. The VMP must outline the management of the site according to Management Zones, that are chosen based on management objectives and activities. The following details must be included in the VMP at a minimum:</p> <ul style="list-style-type: none"> • Replanting of vegetation • Removal of priority weeds • Retention and protection of important habitat features (including hollow-bearing trees and large sandstone outcrops) • Erosion and sediment control and fencing • Adherence to asset protection zones <p>The VMP is required to consider the Landscape Plan and requirements of the IPA in accordance with Planning for Bushfire Protection (2019). As such, the consultant preparing the VMP must consult with the Bushfire Consultant, Landscape Architect and Ecologist to ensure achievable outcomes for the site. Details of such consultation must be included within the report.</p> <p>During a site visit conducted by Council's Biodiversity officers, several hollow-bearing trees were identified within the site. Some hollows were suitable for supporting breeding by threatened species listed under the BC Act including Powerful Owl and Barking Owl, both of which have been recorded within 200m of the Subject Site. As the trees on site were not tagged by the Arborist, it was difficult to determine which trees these were in the Arborist report. Further clarification is required by the Ecologist/Arborist. Hollow-bearing trees within the site must be retained and protected throughout the development and associated APZ works. Such trees are to be identified for retention by the Ecologist and specified within the VMP.</p> <p>Council's Biodiversity referrals team maintain the request for more information and justification for the removal of the following trees which appear to be outside of the development footprint. Trees 27, 28, 29, 37, 38, 39, 40, 49, 50, 51, 80, 81, 86, 87, 88, 109, 117, 130, 131, 134, 135, 141, 142, 144, 145, 148, 151, 158. Clarification is required to be included in the amended Arborist Report.</p> <p>The consultant is advised that all reports submitted as part of the application are to be finalised prior to submission. Draft reports will not be accepted. Upon receipt of the VMP and updated Arborist Report, Council's Biodiversity referrals team will recommence assessment.</p> <p>Original Biodiversity Referral (26th July 2021)</p>

Internal Referral Body	Comments
	<p>Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related controls:</p> <ul style="list-style-type: none"> • Biodiversity Conservation Act 2016 • Biodiversity Conservation Regulation 2017 • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor • Coastal Management SEPP 2018 cl. 11 Development on land in proximity to coastal wetlands or littoral rainforest <p>The Development Application seeks consent for the construction of a new dwelling house, driveway, associated landscaping and establishment of an Asset Protection Zone (APZ) within a heavily vegetated vacant block.</p> <p>It is noted that the following biodiversity related reports/documentation have been submitted with the application and have been reviewed as part of this assessment:</p> <ul style="list-style-type: none"> • Statement of Environmental Effects (Strategic Approvals, June 2021) • Flora and Fauna Assessment (Trevor J. Hawkeswood, November 2020) • Arboricultural Impact Statement (Advanced Arborist Reporting, November 2020) • Bushfire Assessment Report (Building Code and Bushfire Hazard Solutions, January 2021) • Landscape Plan (Space Landscape Designs, March 2021) <p>The Statement of Environmental Effects (SEE) has addressed the provisions of the Warringah DCP, which do not apply to the proposal. The SEE is to be amended to address the provisions of the Pittwater 21 DCP, including P21 DCP cl. B4.4.</p> <p>There appears to be confusion regarding the proposed Asset Protection Zone (APZ) prescribed by the Bushfire Consultant. On page 6 of the Bushfire Assessment Report, the consultant has stated "<i>The existing allotment configuration of the subject site precludes the ability to provide larger Asset Protection Zones. The available Asset Protection Zone (APZ) was measured to be 11 metres to the northeast. The APZ consists of grounds entirely within the subject property</i>". However on page 11 this is followed by "<i>All grounds within the subject property are to be maintained in accordance with an Inner Protection Area (IPA) as detailed in the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'</i>". The report is to be amended to provide clarity regarding the extent to which the APZ is to be established within the site. The size of the APZ will have implications to the biodiversity assessment and whether the proposal triggers the Biodiversity Offset Scheme (BOS).</p>

Internal Referral Body	Comments
	<p>The Flora and Fauna Assessment states that “this project does not require a BDAR report as the amount of bushland to be removed is less than 0.25 hectare”. Vegetation clearing is to be calculated by assessing the area of impact for the whole development including any asset protection zones required by the Rural Fire Service. As the minimum lot size associated with the property is <1ha, the removal of >0.25ha of native vegetation will trigger entry into the BOS. Should the Bushfire Consultant confirm the whole site is to be maintained as an APZ, the BOS will be triggered and a Biodiversity Development Assessment Report (BDAR) will be required to be prepared by an accredited assessor. Council have referred the Bushfire Report onto the NSW RFS and are currently waiting comment and recommendations. Should the NSW RFS require that the entire site be maintained as an IPA, a BDAR will be required.</p> <p>To avoid triggering the BOS and the requirement of a BDAR, the applicant would be required to ensure that the APZ (combined with the development footprint) is below the vegetation clearing threshold (<0.25ha). If this cannot be achieved, a BDAR will be required to be submitted.</p> <p>The updated Flora and Fauna Assessment Report or BDAR is to include targeted surveys for the following threatened species that are known to occur within the broader locality:</p> <ul style="list-style-type: none"> • <i>Rhodamnia rubescens</i> <p>Council's Biodiversity referrals team request more information and justification for the removal of the following tree which appear to be outside of the development footprint. Tree 27, 28, 29, 37, 38, 39, 40, 49, 50, 51, 80, 81, 86, 87, 88, 109, 117, 130, 131, 134, 135, 141, 142, 144, 145, 148, 151, 158.</p> <p>As recommended by the Flora and Fauna Assessment, a Vegetation Management Plan (VMP) is to be prepared by a suitably qualified person to guide the revegetation of the site. The VMP should outline the management of the site according to Management Zones, that are chosen based on management objectives and activities. Details including (but not limited to) replanting, removal of priority weeds, retention and protection of important habitat features, erosion and sediment control, fencing, and adherence to asset protection zones are to be included in the VMP. The VMP is required to consider the Landscape Plan and requirements of the IPA. It is recommended the consultant preparing the VMP discuss with the Bushfire Consultant, Landscape Architect and Ecologist to ensure achievable outcomes for the site.</p> <p>The consultant is advised that all reports submitted as part of the application are to be finalised prior to submission. Draft reports will not be accepted. Upon receipt of the updated Arborist Report, updated</p>

Internal Referral Body	Comments
	Flora and Fauna Assessment or BDAR, and VMP, Council's Biodiversity referrals team will recommence assessment.
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The NSW Rural Fire Service have provided a letter with recommended conditions. This letter has been attached to the consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>There are known Aboriginal sites in the area although no sites are recorded in the current lot.</p> <p>An inspection of the property by the Aboriginal Heritage Office and Council (3 Aug 2021) did not identify any Aboriginal heritage issues in the proposed development area.</p> <p>One area of potential was identified in the mid to rear of the property, a sandstone overhang. Provided that this area is not impacted then the Aboriginal Heritage Office would not foresee any further Aboriginal heritage issues on the proposal. If the area would be impacted, then the Aboriginal Heritage Office would recommend further investigation ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional prior to any development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1197961S).

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

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.8m	N/A	Yes (under 2D)

Compliance Assessment

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

4.3 Height of buildings

In accordance with subclause (2D) of the under Clause 4.3 of the Pittwater LEP, the proposal provides a height of 9.8m and the following matters have been satisfied as follows:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.

Comment:

The proposal involves a minor section of the dwelling toward the front of the site that does not comply with the building height standard. This is limited to part of the top level and roof.

(b) the objectives of this clause are achieved.

Comment:

The proposal meets the objectives as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

The proposal involves a compliant front setback, provides sufficient articulation of the built form, and is surrounded by vegetation. This ensures the dwelling will be consistent with the desired character of the locality.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

The proposal involves compliant setbacks, building envelope, and landscaped area. Along with this, the proposal will generally match the level of surrounding dwellings. As such, the development will maintain compatibility with surrounding development.

(c) to minimise any overshadowing of neighbouring properties,

The proposal provides articulation in the dwelling at the each elevation, and compliant setbacks to allow for appropriate access to sunlight. Furthermore, the proposal complies with the controls for Solar

Access under the Pittwater DCP.

(d) to allow for the reasonable sharing of views,

The proposed dwelling maintains compliant side building lines and a roof design to allow for adequate view corridors. Further, topography of the surroundings allows nearby dwellings to have views through the subject site.

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

The proposal fits in to the topography of the site without the need for excessive excavation. As such, the proposal responds sensitively to topography.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The proposal provides appropriate stepping, modulation and articulation to ensure there would be no unreasonable visual or any other impact on the natural environment.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).

Comment:

The building footprint is situated on a slope that exceeds 16.7 degrees.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment:

The proposed dwelling provides adequate stepping, and there is not requirement for any significant excavation.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20m	20m	N/A	Yes
Rear building line	20m	52m	N/A	Yes
Side building line	6.5m	6.5m	N/A	Yes
	6.5m	11m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes
Landscaped area	80% (3238sqm)	80% (3240sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.2 Bayview Heights 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
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 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
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	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
D2.1 Character as viewed from a public place	Yes	Yes
D2.2 Scenic protection - General	Yes	Yes
D2.3 Building colours and materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D2.5 Front building line	Yes	Yes
D2.6 Side and rear building line	Yes	Yes
D2.7 Building envelope	Yes	Yes
D2.9 Landscaped Area - Non Urban	Yes	Yes
D2.11 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D2.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D2.13 Scenic Protection Category One Areas	Yes	Yes

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

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$9,731 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$973,060.

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:

- Inconsistent with the objectives of the DCP

- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent 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 DA2021/1005 for Construction of a Dwelling House including a swimming pool on land at Lot 16 DP 244776, 49 - 51 Annam Road, BAYVIEW, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (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
DA101 - Site Plan	5/03/2021	Luff Pier
DA103 - Ground Floor Plan	5/03/2021	Luff Pier
DA104 - First Floor Plan	5/03/2021	Luff Pier
DA105 - Second Floor Plan	5/03/2021	Luff Pier
DA106 - Roof Plan	5/03/2021	Luff Pier
DA107 - Elevation	5/03/2021	Luff Pier
DA108 - Elevation	5/03/2021	Luff Pier
DA109 - Section A-A & B-B	5/03/2021	Luff Pier
DA111 - Materials and Finishes	5/03/2021	Luff Pier

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Rural Fire Service Letter	13 October 2021	NSW Rural Fire Service
Vegetation Management Plan	16 December 2021	Fraser Ecological
Arboricultural Impact Statement	26 November 2021	Advanced Arborist Reporting
Bushfire Assessment Report	30 August 2021	Building Code & Bushfire Hazard Solutions Pty

		Limited
Geotechnical Investigation	3 March 2021	White Geotechnical Group
BASIX Certificate (1197961S)	28 April 2021	Certified Energy
Construction Management Plan	22 March 2021	Luff Pier Pty Ltd

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-100 - Landscape Plan - Rev C	8/03/21	Space Landscape Designs
Waste Management Plan		
Waste Management Plan	18/01/2022	Farbod Danesh

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	21/07/2021

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

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

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

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

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

4. **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.

5. 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

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$9,730.60 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 2021. The monetary contribution is based on a development cost of \$973,060.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

7. **Security Bond**

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

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

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

8. **Tree Protection Plan**

a) A Tree Protection Plan shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures to protect the following trees:

- i) trees identified in the Arboricultural Impact Assessment as tree numbers 1, 19, 35 - Syncarpia; tree numbers 3, 5, 6, 7, 8, 9, 10, 21, 24, 25, 30, 31, 32, 33, 34, 36, 40, 41, 46, 47, 48, 111, 112, 119, 128, 129, 155 - Eucalyptus or Corymbia; tree numbers 4, 11, 12, 13, 16, 18, 20, 22, 23 - Angophora; and tree numbers 15, 55, 67, 85, 110, 132, 133, 143, 149, 152 - Casuarina; within the site,
- ii) trees identified in the Arboricultural Impact Assessment within the road verge,
- iii) trees identified in the Arboricultural Impact Assessment as tree numbers 2, 17, 26, 64, 82, 83, 84, 113, and 114, within adjoining property where 5 metres from development works.

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

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

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

Reason: Tree protection.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 31/3/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **No Clearing of Vegetation**

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

Trees 117, 141 & 158 within the road corridor are to be retained.

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

Construction Certificate.

Reason: To protect native vegetation.

11. 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 Certifying Authority Prior to issue of Construction Certificate.

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

12. Boundary Identification Survey

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

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

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

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

13. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by ASCO Engineering Pty Ltd, job number 21012, drawing number C00 to C06, dated 22/2/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. OSD to be provided in accordance with Clause 9.3.1 of Council's Water Management for Development Policy

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

14. Vehicle Driveway Gradients

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level

parking facility.

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

Reason: To ensure suitable vehicular access to private property.

15. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

16. **Compliance with Vegetation Management Plan Recommendations – Pre-Construction**

All pre-construction biodiversity-related measures specified in the approved Vegetation Management Plan (Fraser Ecological 16 December 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist prior to issue of the Construction Certificate.

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

17. **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.

18. **Construction Traffic Management Plan**

A Construction Traffic Management Plan is to be prepared for the development given its unusual location and access arrangements.

The Construction Traffic Management Plan should include the following:

- Provision of a plan to notify adjoining properties which use the access road as to when works will be undertaken.
- Details for maintaining access to adjacent properties at all times
- Details regarding access to the site for trucks
- Details for storage of materials
- Provision of parking for workers
- Details for loading and unloading of materials

The Management Plan is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate and complied with for the duration of works.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment and the updated Arboricultural Impact Assessment dated 26 November 2021):

- i) *Eucalyptus punctata* identified as tree numbers 27 to 29, 49 to 51, 60 to 63, 68 and 78,
- ii) *Eucalyptus robusta* identified as tree numbers 37 to 40,
- iii) *Eucalyptus* sp identified as tree numbers 52, 59, 87, 104, and 148,
- iv) *Corymbia gummifera* identified as tree numbers 45, 73, 74, and 93,
- v) *Pittosporum* sp identified as tree number 42,
- vi) *Angophora costata* identified as tree numbers 53, 76, and 124,
- vii) *Syncarpia glomulifera* identified as tree numbers 41, 43, 44, 66, 91, 94, 99, 101, 102, and 120,
- viii) *Casuarina littoralis* identified as tree numbers 54 to 58, 69 to 72, 75, 77, 79 to 81, 86, 88 to 90, 92, 95 to 98, 100, 103, 105 to 109, 116, 121 to 123, 125 to 127, 130, 131, 134, 135, 142, 144, 145, 150, and 151.

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

Note: No existing trees within the road verge nor within adjoining properties are permitted to be removed.

Reason: To enable authorised building works.

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

20. **Tree Removal Within the Road Reserve**

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the updated Arboricultural Impact Assessment dated 26 November 2021):

- tree 141 *Casuarina littoralis*
- tree 158 *Casuarina littoralis*

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

21. 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.

22. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

23. Clearing for Asset Protection Zones

Clearing of vegetation during works for APZ establishment must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be submitted to the Principal Certifying Authority.

Reason: To protect native vegetation and wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. 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) or vi) occur during site establishment and construction works, an

Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the approved Tree Protection Plan.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an AQF level 5 Arborist as complaint,
- e) 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.

25. **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.

26. **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 Certifying Authority.

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

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

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

the approved VMP and these conditions of consent.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

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

28. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) existing tree retention shall be in accordance with the approved Tree Protection Plan,
- ii) all trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees, and shall be staked until established,
- iii) each tree planting shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 5 metres from existing and proposed buildings, and other trees,
- iv) tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative

<https://5milliontrees.nsw.gov.au/>

29. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

30. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

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

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

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 the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

31. Certification Elevated Access Driveway and Parking Facility Work

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated access driveway and parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

32. Geotechnical Certification Prior to Occupation Certificate

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

Reason: To ensure geotechnical risk is mitigated appropriately.

33. Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved VMP and these conditions of consent. Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist prior to issue of any Occupation Certificate.

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

accordance with relevant Natural Environment LEP/DCP controls.

34. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(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 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

35. **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.

36. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

37. **Maintenance of Asset Protection Zones**

Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

38. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Thomas Prosser, Planner

The application is determined on 19/01/2022, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager