

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2019/0007
Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 31 DP 10529, 25 Palm Road NEWPORT NSW 2106
Proposed Development:	Review of Determination of Application DA2018/1472 for construction of a new front fence
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David Hall-Johnston Gayle Diane Hall-Johnston
Applicant:	David Hall-Johnston
Application lodged:	19/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	27/02/2019 to 15/03/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 8,000.00

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

Environmental Planning and Assessment Act 1979 - Section 82A - Environmental Planning and Assessment Act 1979 - Section 8.3

Pittwater 21 Development Control Plan - A1.7 Considerations before consent is granted

Pittwater 21 Development Control Plan - A4.10 Newport Locality

Pittwater 21 Development Control Plan - D10.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D10.3 Scenic protection - General

Pittwater 21 Development Control Plan - D10.14 Fences - General

SITE DESCRIPTION

Property Description:	Lot 31 DP 10529 , 25 Palm Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one allotment located on the southern side of Palm Road, Newport.</p> <p>The site is regular in shape with a frontage of 13.41m along Palm Road and a depth of 39.185m. The site has a surveyed area of 503.4m².</p> <p>The site is located within the R2 zone and accommodates a single storey dwelling house with an attached double garage and an approximately 1.5m high lattice front fence.</p> <p>The site has a slight slope from the front northern boundary to the rear southern boundary.</p> <p>The site does not contain any significant vegetation nor threatened species, however a mature canopy tree is located within the Council Nature Reserve fronting the subject site, measuring 3.3m from the proposed front fence.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development consists of similar low-density residential properties, predominantly characterised by one and two-storey dwelling houses with a mixture of single and double attached garages.</p> <p>Along Palm Road there are 14 properties with either no fence or a front hedge, six with fences of approximately 1m or lower and 13 fences approximately 1.2m and higher. The existing streetscape is largely compatible with the desired character whereby landscaped, treed frontages</p>

are prominent and the built form is well integrated in a natural landscaped setting.

The Newport Bowling Club and Tennis Courts are situated at the western end, on the northern side of Palm Road.

Map:



SITE HISTORY

Development Application DA2018/1472 was determined for Refusal 13 December 2018.

Other relevant application

Approval no. 2759/86

Alterations and additions

Date of approval - 30.10.86 - amended - 2.4.87

The application was approved with a lattice front fence with a maximum height of 1.65m

PROPOSED DEVELOPMENT IN DETAIL

The original Development Application proposed the construction of a 1.5m fence constructed of better block piers and base clad with sandstone tiles and horizontal scyon panels and landscaping within the road reserve.

The development application was refused for the following reason:

1. The proposed fence design is non-compliant with the outcomes, controls and variations prescribed by clause D10.14 (Fences - General) of Pittwater 21 Development Control Plan, specifically with regard to the desired character of the locality, and the requirement for an open streetscape with maximum casual surveillance of the street. Furthermore, the proposed fence will likely compromise the retention of an existing mature street tree within the public road reserve, as retention/mitigation measures stipulated within the Arboricultural Impact

Assessment report have not been adhered to in the proposed design. Pursuant to Section 79C (1)(a)(iii) (now Section 4.15(1)(a)(iii)) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D10.14 Fences - General of the Pittwater 21 Development Control Plan.

This review application lodged pursuant to Section 8.2(1)(a) of the *Environmental Planning and Assessment Act 1979* (former Section 82A) seeks the review of the determination and decisions made for development application no. DA2018/1472, determined by way of refusal on 13 December 2018.

The application for review has made amendments to the proposed development, including the following:

- Lowering of the height of the proposed new front fence to 1.4m,
- Change in the colour of the horizontal fence panels to a darker tone to comply with Council's prescribed colour palette;
- Removal of plants that were shown on the DA drawings as proposed to be planted on the Council verge; and
- Notes relating to flood issues as well as a tree located on the verge.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 13 December 2019 and the notice of determination was issued on 13 December 2018. The review was lodged on 19 February 2019 and is to be considered by 13 June 2019 , which is within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans 2019 has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act

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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mrs Carmel Jacqueline Skillicorn	27 Emu Road GLENBROOK NSW 2773

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

- Flooding

The matters raised within the submissions are addressed as follows:

- **Flooding**
The submission raised concerns regarding possible flooding as the result of a double car garage approved on the subject site by Council in 2017.

Comment:

The submission relates to a proposal previously approved by Council (N0399/17) whereby the issue of flooding was referred to Council's Flooding Engineers who raised no issue. The current proposal is for a Review of determination for a front fence. Council's Flooding engineers have reviewed the proposal and have raised no issue.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of existing trees and vegetation, and compliance to the DCP controls for fences.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees and Bushland Vegetation D10 Newport Locality D10.14 Fences - General</p>

Internal Referral Body	Comments
	<p>A tree root mapping investigation is required for Construction Certificate to verify tree root locations along the boundary location of the proposed fencing.</p> <p>The tree root mapping investigation shall be conducted by an Arborist with a level 5 AQZ qualification in horticulture, and shall verify locations of all roots greater than 25mm in diameter. The Arborist shall determine the type of construction for the fencing to ensure no impact to the existing street tree, and shall recommend either strip footing or pier footings.</p> <p>A report shall be issued to the Certifying Authority to provide a definitive recommendation to preserve the long term survival of the existing street tree. Based on these recommendations, the Certifying Authority shall only approve Construction Certificate design that satisfies the recommendations.</p> <p>This requirement will be conditioned to satisfy the Australian Standards for protecting trees. In accordance with AS4970-2009 Protection of Trees on Development Sites, where a Major Encroachment (>10%) is estimated, as is reported in this instance, the course of action is,</p> <ul style="list-style-type: none"> ·Root investigation by non-destructive methods may be required for any trees proposed for retention. ·The area lost to this encroachment should be compensated for elsewhere, contiguous with the TPZ. ·The project arborist will be required to supervise any works within the TPZ. ·Tree protection must be installed.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed fence includes an opening in the bottom to allow the free passage of overland flow.</p> <p>It complies with the flood requirements of the LEP and DCP.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</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 (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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	Fence - 1.4m	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	No	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
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
C1.13 Pollution Control	Yes	Yes
D10.1 Character as viewed from a public place	No	Yes
D10.3 Scenic protection - General	No	Yes
D10.4 Building colours and materials	Yes	Yes
D10.12 Landscaped Area - General	Yes	Yes
D10.14 Fences - General	No	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

Before granting development consent, Council must be satisfied that the development is consistent with:

Pittwater Local Environmental Plan 2014;
the desired character of the Locality;
the development controls applicable to the development; and
relevant matters of consideration under section 4.15 Evaluation of the Environmental Planning and Assessment Act (EPA Act) 1979.

A4.10 Newport Locality

The application is proposing a 1.4m high fence to replace the existing 1.5m lattice fence at the front of the site. The existing fence on the site was approved under Building Approval - 2759/86 dated 30.10.1986 with a height of 1.65m and was built to 1.5m. Clause D10.14 Fences - General of the P21 DCP allows for 1m high fences in the area.

The proposed fence has gone some way to meet the desired future character of the site with a reduction in height from the previous application and the use of dark and earthy tones. However, the height of the fence and the location along the front boundary dominates the street frontage and does not allow for the fence to blend into natural, landscaped environment. The proposed height of 1.4m provides a barrier that screens landscaping in the front yard.

It is recommended that a condition be included in the report reducing the height of the fence to 1.2m. The reduction in height, along with the proposed colours, materials and horizontal slats will allow landscaping to grow over and through the fence. This will soften the appearance of the fence when viewed from the street.

Whilst the proposed development does not fully achieve the desired future character, it is consistent with the reduction in the height of the fence the overall intention of the desired future character of the Newport Locality will be met and is therefore acceptable.

D10.1 Character as viewed from a public place

Description of non-compliance

The proposal is for a front fence with a height of 1.4m and a nil setback to the front boundary.

Merit consideration

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

- *To achieve the desired future character of the Locality.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built form and natural environment.*
- *To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.*
- *The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)*
- *High quality buildings designed and built for the natural context and any natural hazards. (En, S)*
- *Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum. (S)*

- *To preserve and enhance district and local views which reinforce and protect Pittwater's natural context.*
- *To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures being a secondary component.*
- *To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land*

Comment:

Palm Road has a mixture of fencing styles and heights. A review of the street by the Assessing Officer has found that 60% of the properties have no fence, a hedge fence or a low fence, with the remaining 40% of fences over 1.2m in height. The control requires landscaping to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation. The proposed height and setback do not allow for landscaping to screen the visual impact of the built form. The Statement of Environmental Effects (SEE) mentions that the area at the front of the site is used for maneuvering of vehicles and the front fence can not be setback further off the boundary to allow for screen planting. The plans submitted with the application show existing and proposed planting behind the fence. If the proposal cannot be set back from the boundary then It is recommended that the fence be lowered in height to 1.2m. The reduced height, along the proposed colours and materials and horizontal slats will allow for landscaping in the front yard to grow over and through the fence. Which will soften the appearance of the fence when viewed from the street.

As such, it is recommended that the proposed fence at 1.2m in height be supported on merit.

D10.3 Scenic protection - General

Description of non-compliance

The proposal is for a front fence with a height of 1.4m and a nil setback to the front boundary.

Merit consideration

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

- *Achieve the desired future character of the Locality.*
- *Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment.*

Comment:

The control requires the built form to be secondary to bushland landscaping. As the the site is located in a residential area bushland is not the predominant feature. However, the desired future character of the Newport Locality emphasises a natural landscaped setting, integrated with the land form and landscape and in residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation. The proposed height and setback do not allow for landscaping to screen the visual impact of the built form. The Statement of Environmental Effects (SEE) mentions that the area at the front of the site is used for maneuvering of vehicles and the front fence can not be setback further off the boundary to allow for screen planting. The plans submitted with the application show existing and proposed planting behind the fence. If the proposal cannot be set back from the boundary then It is recommended that the fence be lowered in height to 1.2m. The reduced height, along the proposed colours and materials and horizontal slats will allow for landscaping in the front yard to grow over and

through the fence. Which will soften the appearance of the fence when viewed from the street.

As such, it is recommended that the proposed fence at 1.2m in height be supported on merit.

D10.14 Fences - General

Description of non-compliance

The front fence is proposed with a maximum height of 1.4m. The existing fence on the site was approved at a height on 1.65m and was built to a height of 1.5m. Clause D10.14 Fences - General, requires a 1m height limit for fencing in the area. The P21 DCP was not in existence at the time of the original approval.

The control requires front fences to be compatible with the streetscape character. There are currently several examples of fences along Palm Road that do not meet the 1m height control, however, a search of Council records can only find one approved development consent, which is for the subject site. A survey of the fencing along Palm Road has determined that 60% of properties have no fencing, hedge fences or fencing under 1m in height and 40% of properties have a fence with a height over 1.2m. The predominant streetscape character is for no, or low fencing consistent with the desired future character.

The proposed design of the fence with dark earthy tones, and horizontal slats with 20% transparency meets the controls requirement for fences to be constructed of open, see-through, dark-coloured materials.

The location of the fence with a nil setback to the front boundary does not allow for landscaping to screen the fence on the roadside and does not meet the requirement of the control.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying variations to the Control.

The proposed development does not meet the requirements for a variation to the control as the site is not located on a corner lot, does not have more than one street frontage or located on a main road. furthermore, the main private open space for the site is located away from the front boundary towards the rear of the site. The design of the fence under the variation clause is not applicable.

Outcomes

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

Comment:

The proposed development does not achieve the desired future character in its entirety, it is considered that with the reduction in the height of the fence as mentioned throughout the report, the overall intention of the desired future character of the Newport Locality will be met and is therefore acceptable.

- *An open streetscape that allows casual surveillance of the street.*

Comment:

The proposed fence with a height of 1.4m, gate and 20% transparency will reduce the opportunities for casual surveillance on the site from what is currently available.

The Statement of environmental Effects provided with the application mentions that the fence cannot be set back from the boundary to allow for planting in front of the fence because the owners of the site want to maintain the front yard for maneuvering their vehicle in and out of the site. Council can understand that the applicants need to enter and exit their site in a manner that is safe. However, the current proposed height of 1.4m may reduce views from the front yard and it is considered that a reduced height in the fence to 1.2m would still provide safety and security to the site while improving sightlines for vehicles entering and exiting and as well as pedestrians walking in front of the site.

A condition recommending the fence be reduce in height to 1.2m will allow for greater visibility from the dwelling and front yard of the streetscape to maintain causal surveillance.

- *Fences, where provided, are suitably screened from view from a public place.*

Comment:

The proposed fence is located along the front boundary with no opportunity for planting to screen the fence from public view. As mentioned above, the applicants do not wish to set the fence off the boundary as they use the front of the site to maneuver their vehicle in and out of the site.

The proposed fence does not meet this requirement. It is considered that lowering the fence to 1.2m in height, along with current design of the fence with horizontal slats to allow transparency, the proposed colours and materials and the existing and proposed planting behind the fence will help the fence to blend into the landscaped environment. The proposed 1.4m height provides a barrier that will screen landscaping in the the front yard. The lower height of the fence will allow for more of the landscaping behind the fence to be visible, distracting from the fence.

- *To ensure fences compliment and conserve the visual character of the street and neighbourhood.*

Comment:

As noted above, 60% of the properties have no fencing/ hedge fencing or a fence below 1m in height. These fences are generally in keeping with the desired future character for the area and the requirements of the clause. The proposed fence with a height of 1.4m along the front boundary does not meet the predominant visual character of the street. A condition recommending the height of the fence be reduced to 1.2m in height will go some way towards conserving the visual character of the street.

- *To define the boundaries and edges between public and private land and between areas of different function.*

Comment:

The proposal adequately defines the boundaries between between public and private land and between areas of different function.

- *To contribute positively to the public domain.*

Comment:

The proposed fence is aesthetically more appealing than the current fence on the site and will provide some privacy and security to the occupants of the site. The SEE argues that the current fence is a eyesore and needs to be replaced and that the predominate height of fences along the street is over 1.2m in height. The private open space is located at the rear of the site and as

the front yard is partly used for maneuvering of a car in and out of the site in a forward motion, the height of the fence above 1.2m is not as necessary for privacy reasons.

While there are other examples of fences of a similar height and lesser design, a search of Councils records can find no development approval for these fences. A condition is recommended reducing the height of the fence. The reduced height of the fence from 1.4m to 1.2m, the proposed colours and materials along with the proposed planting will go some way to providing a fence that is more in keeping with the desired landscaped, open character of the area and will contribute positively to the public domain.

- *To enhance safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.*

Comment:

The proposed condition to reduce the height of the fence to 1.2m will improve the safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.

- *To ensure heritage significance is protected and enhanced.*

Comment:

The proposed fence is not in the vicinity of any heritage significant items or locations.

- *To ensure an open view to and from the waterway is maintained.*

Comment:

The subject site is not located near any waterways and will not impede views to and from waterways.

- *To ensure native vegetation is retained.*

Comment:

The proposal will retain native vegetation on the site.

- *To ensure any fencing provides for the safe and unhindered travel of native animals.*

Comment:

The design of the fence will not unreasonably endanger or hinder the travel of native animals.

As such, it is recommended that the proposal be supported on merit, despite the technical noncompliance with the outcomes of the control.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

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 REV2019/0007 for Review of Determination of Application DA2018/1472 for construction of a new front fence on land at Lot 31 DP 10529, 25 Palm Road, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A100 - Site Plan	08.02.2019	Blue Sky Building Designs
A101 - Fence	08.02.2019	Blue Sky Building Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	18th December 2018	Tree + Survey Pty Ltd

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. **Amendments to the approved plans**

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

- The fence is to have a maximum height of 1.2m in height.

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.

3. **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

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether

the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

6. **Tree Root Mapping Investigation**

A tree root mapping investigation shall be undertaken prior to the issue of a Construction Certificate to verify the existing location of tree roots along the boundary location of the proposed fencing.

The tree root mapping investigation shall be conducted by an Arborist with a level 5 AQZ qualification in horticulture, and shall verify locations of all tree roots greater than 25mm in diameter. The Arborist shall determine the type of construction for the fencing to ensure that no impact (less than 10% to the TPZ allowed under AS4970-2009) occurs to the existing street tree. Subject to the tree root mapping investigations, the Arborist shall recommend either strip or pier footings.

A report shall be issued to the Certifying Authority to provide a definitive recommendation to preserve the long term survival of the existing street tree. Based on these recommendations, the Certifying Authority shall only approve Construction Certificate design approval that satisfies the recommendations.

Reason: to ensure the protection of the existing landscape amenity.

7. **Amendments to the approved plans**

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

- The fence is to have a maximum height of 1.2m in height.

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. **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.

10. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture is to be appointed to supervise and certify tree protection measures for the existing street tree located within the road reserve frontage of 25 Palm Road, requiring site attendance during excavation and construction works, including excavation and footing location works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4.

Reason: to ensure the protection of the existing landscape amenity.

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

Signed



Julie Edwards, Planner

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



Anna Williams, Manager Development Assessments