

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2022/2202 |
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| Responsible Officer: | Nick England |
| Land to be developed (Address): | Lot 14 DP 216125, 6 Jacqueline Close BAYVIEW NSW 2104 |
| Proposed Development: | Alterations and additions to a dwelling house including a swimming pool and double carport |
| Zoning: | C4 Environmental Living |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Katharine Lucy Abbott John James Wilson |
| Applicant: | Leon Francis Varley |

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| Application Lodged: | 17/01/2023 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 23/01/2023 to 06/02/2023 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 447,700.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The application consists of the construction of:

- a two (2) vehicle carport and associated driveway (partly elevated);
- removal of four (4) small trees to accommodate proposed driveway;
- studio, 17m² in area;
- demolition of existing stairs;
- new elevated stairway access;
- bin storage area; and
- swimming pool and associated decking to the rear of the existing dwelling.

Upon initial assessment of the proposal, Council raised concern with the impact of the proposal on significant trees within the site and the adjoining road reserve and the presence of unauthorised structures in the road reserve.

The application has subsequently been amended to minimise its impact on existing trees and agree to the in-principle demolition and part removal of the encroaching structures, subject to recommended conditions of consent.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B8.5 Construction and Demolition - Works in the Public Domain

Pittwater 21 Development Control Plan - D2.5 Front building line

Pittwater 21 Development Control Plan - D2.10 Fences - General

SITE DESCRIPTION

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| Property Description: | Lot 14 DP 216125 , 6 Jacqueline Close BAYVIEW NSW 2104 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the near the junction of the cul-de-sac, Jacqueline Close, Bayview.</p> <p>The site is irregular in shape with a frontage of 23.31m along</p> |

Bayview Close and a depth varying between 40.52 and 53.59m. The site has a surveyed area of 849.8m².

The site is located within the C4 Environmental Living zone and accommodates a multi-level dwelling house and associated steps and terraced landscaping at the front, side and rear of the dwelling. No off-street parking is provided to the existing dwelling.

An outbuilding is located on the northern corner of the site, used for pedestrian access to the dwelling. The majority of this building is located on the adjoining road reserve, in conjunction with a front boundary fence, which is also located entirely on the road reserve.

The site has significantly steep topography, with average gradient of 25 degrees. The slope falls sharply down from the front boundary to the rear of the site.

Significant native vegetation and rock outcrops existing on the site, with the land identified as being subject to Heathland Vegetation communities. The site is also designated as bush-fire prone.

Adjoining and surrounding development is characterised by dwelling houses in a highly vegetated environment. Downslope of the site to the south-west is a large vacant allotment in an undisturbed state, also within the C4 Environmental Living zone.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

1715/88: Consent granted for a dwelling house, 28 June 1988. No off-street parking was provided as part of this consent.

N0405/16: Most recent development consent on the land granted for "Alterations and additions to existing dwelling" on 18 November 2016. The approved plans illustrate an existing "gatehouse" (not subject to the approved works) on the northern corner of the site. Condition No.6 of this consent states that no consent is granted to any structures on the Council road reserve.

Based on this history, it can be reasonably assumed that: the original dwelling was approved with no off-street parking; the gatehouse was constructed sometime between 1988 and 2016; and this gatehouse was never subject to a legitimate consent.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested, on 20 April 2023, in relation to: Landscape / Removal of Trees; Vehicular Access / Stormwater Management / Landslip Risk; Structures on Council's Road Reserve. Amended information in regard to these issues were received by Council on 7 June 2023.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent</p> |

| Section 4.15 Matters for Consideration | Comments |
|--|---|
| | <p>authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability 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 Bushfire Hazard Solutions, dated 21 February 2022) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent. The proposal is considered to align with the requirements of Section 4.14 of the Act.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/01/2023 to 06/02/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|--|
| Landscape Officer | <p>Amended Site Plans and an updated Arboricultural Impact Assessment are submitted to address previous Landscape Referral concerns.</p> <p>The amended site plans have relocated proposed structures and driveway sufficiently away from existing native trees as requested by Landscape Referral, and the updated Arboricultural Impact Assessment provides tree protection measures to ensure preservation. The recommendations of the updated Arboricultural Impact Assessment raise no concerns, and it is noted that the removal of the four Bangalow Palms does not require Council consent as these species are listed as exempt species.</p> <p>Conditions of consent shall be imposed to ensure the recommendations of the updated Arboricultural Impact Assessment are undertaken, including engagement of a Project Arborist and that tree sensitive construction methods are utilised as recommended.</p> <p>It is noted that fencing encroachment within the road reserve exists, and this matter shall be determined by the Assessing Planning Officer.</p> |
| NECC (Bushland and Biodiversity) | <p>AMENDED COMMENTS</p> <p>The amended plans and arborist report are noted, indicating retention of trees 6 and 7. No additional trees have been nominated for removal. Potential impacts to Tree 33 are referred to the Landscape team for final determination.</p> <p>ORIGINAL COMMENTS 02/02/2023</p> <p>The proposal seeks approval for alterations and additions to a dwelling house including a swimming pool and double carport. The comments on this referral relate to the following controls and provisions:</p> <ul style="list-style-type: none"> SEPP (Resilience and Hazards) 2021 - Littoral Rainforest and |

| Internal Referral Body | Comments |
|--------------------------------|--|
| | <p>Proximity Area</p> <ul style="list-style-type: none"> • Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.18 Heathland/Woodland Vegetation <p>The proposal has been submitted with an arborist report (AIA) that has recommended the removal of 6 trees (6,7,8,9,10 and 11) with trees 6 and 7 being located outside of the property boundary. Their removal is objected on these grounds but final determination will be left to the landscaping referral team. Trees 8-11 are exempt palm species which can be removed without consent and no objection is raised in regards to their removal.</p> |
| NECC (Development Engineering) | <p>22/06/2023:</p> <p>No objections to approval subject to conditions as recommended. To address the requirements of Roads Team, to maintain the fencing and paving encroachment in the road reserve, A minor encroachment application condition has been imposed.</p> <p>For Planner:</p> <p>As per Roads Team Comments please consider imposing a condition prior to issuing the occupation certificate it is ensured the removal of the private gatehouse structure.</p> <p>14/06/2023:</p> <p>Amended plans are provided. It is noted that a referral has been sent to Council's Roads Asset Team, Development Engineering Team will provide final comments after Roads Team provides their assessment.</p> <p>28/02/2023:</p> <p>Development application is for alterations and additions to a four storey residential dwelling including new elevated carport, studio underneath carport, driveway and swimming pool.</p> <p>Stormwater:</p> <p>Site falls to the rear, an onsite stormwater detention system is proposed with level spreader.</p> <p>As the site falls to rear stormwater drainage for the site shall demonstrate compliance with Council's Water Management for Development Policy, particularly Stormwater Drainage from Low Level Properties Section 5.5, but due to site constraints an easement is not considered viable.</p> <p>Geotech:</p> <p>The proposed development is located within a Geotechnical Hazard H1 area. In accordance with Clause B3.1 Landslip Hazard of Pittwater 32 DCP, a risk assessment is to be undertaken (Geotechnical Risk Management Policy for Pittwater) for the site.</p> <p>Geotechnical Assessment by ASCENTGEO Consulting Geotechnical</p> |

| Internal Referral Body | Comments |
|----------------------------------|--|
| | <p>Engineers, Ref AG 22156, Dated 15th May 2022 is provided.</p> <p>Access</p> <p>Elevated carport is proposed. Seems like the bottom of B85 vehicle at chainage 7.48 is scraping, engineer to re-work out driveway profile. New driveway with retaining walls on both sides, gated pedestrian access stairs on public road reserve is proposed.</p> <p>It is noted that a referral has been sent to Council's Roads Asset Team, Development Engineering Team will provide final comments after Roads Team provides their assessment.</p> <p>NOTE: Public land is used for storage of private waste bins. A gate house has also been constructed on public land.</p> |
| NECC (Riparian Lands and Creeks) | <p>Supported.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>The site is on land identified as proximity area for littoral rainforest and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the littoral rainforest, or the quantity and quality of surface and ground water flows that it receives.</p> <p>The proposed water management strategy is based on a rainwater tank, flow spreader and vegetated filter.</p> <p>Note that the vegetated filter is to be well maintained with high density native vegetation.</p> |
| Road Reserve | <p>The proposal impacts the public road reserve with the construction of a new driveway, retaining walls and stairs. The application also indicates the existence of "gatehouse", bin storage and fencing of the public road reserve. Although the fencing of the road reserve dates back prior to 2007 (Streetview) No past approvals could be located for this work, or the more recent picket fence being installed around September 2013. Given the topography of the site it is not unreasonable to provide/permit fencing along the top of the embankment however with the proposed garage development, Council seeks to have the fencing to the south of the driveway relocated to the property boundary, and the fencing to the north relocated closer to the property boundary alignment.</p> <p>The bin storage area is to be removed from Council's road reserve and bins are to be stored within the property boundary in accordance with Council policy.</p> <p>The gatehouse was a open structure in 2009 however was later enclosed by 2013 perhaps around the same time the picket fence was built given the similar styles.</p> <p>The removal of the gatehouse stairs is noted, however the gatehouse encroaching on the public road reserve is unauthorised private development and must also be removed from the road reserve.</p> <p>Amended plans to be submitted indicating same, a condition prior to issuing the occupation certificate may be required to ensure the</p> |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>removal of the private structure.</p> <p>Development Engineering to require s138 Civil Works Application for driveway, retaining walls on road reserve and stairway. Details of proposed fencing to be also included.</p> <p>Second Referral 14/06/2023: The removal of the gatehouse from the road reserve is noted and relocation of the bin enclosure within property boundary. Development Assessment to consider the application of a condition requiring that prior to issuing the occupation certificate it is ensured the removal of the private gatehouse structure.</p> <p>Driveway details indicate "wall" or "kerb" structure on sides of driveway crossing across verge to layback. Development Engineering to ensure the kerb is omitted on the traffickable section of the verge and the grass verge shall be battered off between concrete driveway finished surface level and existing verge level in compliance with Council's standards. Development Engineering to require s138 Civil Works Application for driveway, retaining walls on road reserve. Details of proposed fencing as well as existing fencing to be also included in Application. Encroachment of fencing and paving in the road reserve to be maintained by the property owner in accordance with S142 of Roads Act 1993. The land enclosed by the fencing shall only be used for landscaping purposes and not the storage of private goods.</p> |

| External Referral Body | Comments |
|---|--|
| Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48 | The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent. |
| Rural Fire Service - Local Branch - EP&A Act, s4.14 | The NSW Rural Fire Service has provided a response, dated 1 February 2023. No objection is raised to the application, subject to recommended conditions of consent. |
| Aboriginal Heritage Office | The Aboriginal Heritage Office have raised no objection to the proposal, subject to standard recommended conditions. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

application hereunder.

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A471410_02 dated 19 December 2022).

The BASIX Certificate indicates that the development will achieve the sustainability requirements of the SEPP.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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| 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 | 5.9m (pool) 6.9m (garage) | N/A N/A | Yes Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 4.3 Height of buildings | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.6 Biodiversity protection | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

Zone C4 Environmental Living

A consideration of the proposal against the objectives of the C4 Environmental Living zone is provided below:

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

Comment: The proposed works are ancillary to the existing residential dwelling and has been designed to minimise its impact on the natural environment. Hence, the proposal is consistent with this objective.

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

Comment: As stated above, the proposal has been designed to minimise its impact on the natural environment.

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

Comment: The proposed garage, studio, stairs and swimming pool have been designed to mitigate their impact on the landform and landscape of the site.

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

Comment: The site is subject to Heathland Vegetation wildlife corridors. The application was referred to Council's Biodiversity office who has no objection to the proposed development, subject to condition.

In summary, the application can demonstrate compliance with the objectives of the C4 zone.

5.10 Heritage conservation

The Aboriginal Heritage Office were consulted in the assessment of the application, on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located on or adjoining land. No objection was raised to the proposed development.

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks are minor and will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The application was referred to Council's Biodiversity Officer, who identified no adverse impacts on the adjoining areas of environmental sensitivity.

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

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or any known archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

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

(a) whether the development is likely to have:

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

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

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

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

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

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

Comment: The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

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

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

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

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

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

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

- (b) *the consent authority is satisfied that:*
 - (i) *the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
 - (ii) *if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
 - (iii) *if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

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

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---------------------|-------------|------------------------------------|--------------|----------|
| Front building line | 6.5m | 1.3 - 5m (garage) 2.9m (studio) | 80% 55% | No No |
| | | | | |

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|--------------------|-------------|-------------------------------|------------|------------|
| Rear building line | 6.5m | 14.35m | N/A | Yes |
| Side building line | 2.5m (west) | 10.9m (garage) 4.8m (deck) | N/A N/A | Yes Yes |
| | 1m (east) | 1m (pool) 1m (garage) | N/A N/A | Yes Yes |
| Building envelope | 3.5m (west) | Within envelope | N/A | Yes |
| | 3.5m (east) | Within envelope. | N/A | Yes |
| Landscaped area | 60% | 528.1m ² or 62% | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.2 Bayview Heights Locality | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B4.18 Heathland/Woodland Vegetation | Yes | Yes |
| B4.22 Preservation of Trees and Bushland Vegetation | 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 |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.5 Construction and Demolition - Works in the Public Domain | Yes | Yes |
| C1.1 Landscaping | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.7 Private Open Space | Yes | Yes |
| C1.12 Waste and Recycling Facilities | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.14 Separately Accessible Structures | Yes | Yes |
| C1.17 Swimming Pool Safety | Yes | Yes |
| C1.23 Eaves | Yes | Yes |
| D2.1 Character as viewed from a public place | Yes | Yes |
| D2.3 Building colours and materials | Yes | Yes |
| D2.5 Front building line | No | Yes |
| D2.6 Side and rear building line | Yes | Yes |
| D2.8 Landscaped Area - Environmentally Sensitive Land | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| D2.10 Fences - General | Yes | Yes |
| D2.13 Scenic Protection Category One Areas | Yes | Yes |

Detailed Assessment

B8.5 Construction and Demolition - Works in the Public Domain

Special conditions are recommended in respect to the proposed minor structures / encroachments in the road reserve. A condition of consent is also recommended that the existing "gatehouse" structure be demolished prior to the issue of any occupation certificate.

D2.5 Front building line

Description of Non-Compliance

The proposed carport is located at a distance of 1.3 to 5m from the front boundary, which is up to an 80 variation with the 6.5m front setback control.

The studio directly beneath the carport is located 2.9m from the front boundary, which is 55% variation with the control.

The proposed bin storage and access stairs on the opposite side of proposed carport are permissible encroachments in the front setback area.

Consideration of the Outcomes

A consideration of the non-compliance with the Outcomes of the control is provided below:

Achieve the desired future character of the Locality.

Comment: The proposal (as amended) has been designed to minimise its impact on existing significant vegetation and hence the proposal is consistent with desired future character of the Locality.

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

Comment: There are unlikely to be any adverse loss of views from both adjoining private properties and the public domain, as a result of the proposed non-compliance.

The amenity of residential development adjoining a main road is maintained. (S)

Comment: Not relevant to the subject land.

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

Comment: As stated previously, the revised proposal has been designed to minimise its impact on existing significant vegetation and therefore this Outcome has been achieved.

Vehicle manoeuvring in a forward direction is facilitated. (S)

Comment: The site is constrained by steep topography, particularly at its frontage with Jacqueline Close. Hence, full compliance is difficult and is likely to result in a much more visually prominent structure if setback to comply with the minimum 6.5m requirement. The existing dwelling is currently not serviced by off-street parking. Whilst manoeuvring in a forward direction cannot be provided in this instance, the application was referred to Council's Development Engineers who have no objection to the proposal.

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

Comment: The proposal minimises its impact on the bushland character of the area and serves to retain mature vegetation on the frontage of the site. Hence this Outcome is achieved.

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

Comment: The proposed carport has a varied setback and whilst at 1.3m at its closest point, is up to 5m from the front boundary at its furthest. The proposed studio beneath is situated well below the existing road reserve level and will be largely not visible from the public domain. This will enhance the existing streetscape and is consistent with this Outcome.

To encourage attractive street frontages and improve pedestrian amenity.

Comment: The proposal, as amended, will provide a positive visual outcome on the streetscape (particularly in the context of the removal of existing encroaching structures on the road reserve) and is consistent with this Outcome.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Comment: Existing development on the lower side of Jacqueline Close is, in part, comprised of parking structures close to the front boundary and the proposal is not atypical to this. However, the structure has been setback at a reasonable distance to mitigate its visual impact and makes a positive response to the spatial characteristics of the existing urban environment.

In summary, the proposed development will be consistent with the Outcomes of the control, despite its non-compliance with the numerical requirement of the front setback control.

D2.10 Fences - General

During the course of the assessment it was found that various structures ancillary to the existing dwelling house had encroached upon Council's road reserves. In particular, a picket fence is situated forward of the front boundary. This fence is to be partially demolished to facilitate the proposed carport and driveway. Council's Roads Assets team has been consulted on this aspect of the proposal and no objection is raised to the fence, subject to conditions that the applicant/owner enter into an agreement with Council to properly maintain this structure and use the road reserve appropriately, into the future.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$4,477 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$447,700.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/2202 for Alterations and additions to a dwelling house including a swimming pool and double carport on land at Lot 14 DP 216125, 6 Jacqueline Close, BAYVIEW, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| DA03 Revision C | 1 June 2023 | Progressive Plans |
| DA05 Revision C | 1 June 2023 | Progressive Plans |
| DA06 Revision C | 1 June 2023 | Progressive Plans |
| DA07 Revision C | 1 June 2023 | Progressive Plans |
| DA08 Revision C | 1 June 2023 | Progressive Plans |
| DA09 Revision C | 1 June 2023 | Progressive Plans |
| DA10 Revision C | 1 June 2023 | Progressive Plans |
| DA11 Revision C | 1 June 2023 | Progressive Plans |
| DA12 Revision C | 1 June 2023 | Progressive Plans |
| DA14 Revision C | 1 June 2023 | Progressive Plans |
| DA15 Revision C | 1 June 2023 | Progressive Plans |
| DA16 Revision C | 1 June 2023 | Progressive Plans |
| DA17 Revision C | 1 June 2023 | Progressive Plans |
| DA18 Revision C | 1 June 2023 | Progressive Plans |
| DA19 Revision C | 1 June 2023 | Progressive Plans |
| DA20 Revision C | 1 June 2023 | Progressive Plans |
| DA21 Revision C | 1 June 2023 | Progressive Plans |
| DA22 Revision C | 1 June 2023 | Progressive Plans |
| DA23 Revision C | 1 June 2023 | Progressive Plans |
| DA24 Revision C | 1 June 2023 | Progressive Plans |
| DA25 Revision C | 1 June 2023 | Progressive Plans |
| DA26 Revision C | 1 June 2023 | Progressive Plans |

| Engineering Plans | | |
|--------------------------|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| STORM-1/B | 6 June 2023 | Taylor Consulting |
| 21S222-C01 Issue D | 2 June 2023 | Heinz Consulting |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|------------------|-----------------------------|
| Report Title / No. | Dated | Prepared By |
| Geotechnical Assessment AG 22156 | 15 May 2022 | Ascent Geo |
| Arboricultural Impact Assessment | 5 June 2023 | Hugh The Arborist |
| BASIX Certificate A471410_02 | 19 December 2022 | Progressive Building Design |
| Bushfire Assessment Report 220778 | 21 February | Bushfire Hazard |

| | | |
|--|------|--------------------------|
| | 2022 | Solutions Pty Limited |
|--|------|--------------------------|

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:

| Drawing No/Title. | Dated | Prepared By |
|--------------------------------|------------------|-------------------|
| Waste Management Plan | 1 September 2022 | Leon Varley |
| Landscape Plan DA04 Revision C | 1 June 2023 | Progressive Plans |

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 | Ausgrid Referral Response | 20 January 2023 |

(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. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not

be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$4,477.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$447,700.00.

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

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

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

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

6. Security Bond

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

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

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

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

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

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

7. Tree Protection Plan

a) a Tree protection plan shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, to protect any tree within 5 metres of any proposed development works or activity, and all street trees fronting the development property.

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

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

Reason: Tree protection.

8. No Clearing of Vegetation

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

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

Reason: To protect native vegetation.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by ASCENTGEO Consulting Geotechnical Engineers, Ref AG 22156, Dated 15th May 2022 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **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 Taylor Consulting ,Drawing Number- STORM-1/B, Dated 06/June/2023. 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. Level spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy.
- ii. Level spreader to be at least 3m away from any site boundary.
- iii. Detailed drainage plans, including engineering certification, are to be submitted to the Principal Certifier 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.

11. **Water Quality Management**

The applicant must install a vegetated buffer strip downstream of the stormwater flow spreader. Suitable native species are to be planted at a density of 8 plants by square meter minimum. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

12. Encroachment Application

The applicant is to submit an Minor Encroachments/ Constructions With Road Reserve Application for approval.

The applicant is to enter into any appropriate agreements with Council if required. All costs related to the above application are to be borne by the applicant.

A letter from Council indicating this condition has been satisfied is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Identify the responsibility of the structures on Council road reserve

13. 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 referenced in Condition 1 of this consent 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 Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

14. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include copy of Civil Engineering plans for the design of elevated vehicular crossing in Jacqueline Close which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

- 1) Engineering details for the vehicle crossing and retaining structures to be prepared by a qualified practicing Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E) and has appropriate experience and competence in the related field.
- 2) Vehicle crossing to be 3.0 metres wide at the kerb and the driveway profile to be in accordance with Northern Beaches Council's standard normal low vehicle crossing profile.
- 3) Structural Engineers design certificate for design of elevated driveway and any supporting retaining structure.
- 4) There should be no kerb on the traffickable section of the verge and the grass verge shall be

battered off between concrete driveway finished surface level and existing verge level in compliance with Council's standards.

5) Details of proposed fencing as well as existing fencing.

6) At a minimum, the drawings must show the works in plan view, longitudinal section, details at a relevant scale including all existing levels, any existing services/ infrastructure to be retained in the area of works.

7) Longitudinal section of driveway from street gutter invert to parking space within site with existing and proposed levels and grades

8) All driveways gradients and safe sight distances etc. shall be designed comply with AS 2890.1:2004 (Off-street Parking Standards).

9) Existing services plan to be provided and any adjustment to existing services are to be approved by the relevant service authority with all costs associated borne by the applicant

10) Details of provisions of Physical controls as per Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5

11) 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

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

15. Compliance with Standards

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

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

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

16. Sydney Water "Tap In"

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

a) sections 8, 9, 10 and 11.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

18. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge. or as advised by

All street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be

placed within the canopy dripline of street trees.

Reason: Street tree protection.

20. Tree and Vegetation Protection

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

- i) all trees within the site, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

21. Wildlife Protection

If construction activity associated with this development results in injury or displacement 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. 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.

23. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

24. Removing, Handling and Disposing of Asbestos

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

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

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

25. Geotechnical Requirements

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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 Certifier when the external structure of the building is complete.

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

27. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

28. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

29. Notification of Inspections (infrastructure works to be handed over to Council)

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to pouring for vehicle crossing

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

30. Aboriginal Heritage

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

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

Reason: Aboriginal Heritage Protection.

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

31. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree and vegetation protection.

32. Clearing for Asset Protection Zones

Clearing of vegetation 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 Certifier prior to issue of the Occupation Certificate.

Reason: To protect native vegetation and wildlife.

33. No Weeds Imported On To The Site

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

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

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures 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 for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

35. Certification Elevated Parking Facility Work

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated 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 Certifier prior to the issue of the Occupation Certificate.

Reason: Compliance with this consent.

36. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Public and Private Safety

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

38. **Encroachment on Council land**

The applicant is to submit any necessary agreement for an encroachment on Council land to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Identify the responsibility of the structures on Council road reserve

39. **Demolition of Gatehouse**

The structure located partially on the northern corner of the site and notated on the approved plan, DA11 Revision C dated 1 June 2023, as a "gatehouse" is to be demolished.

Details demonstrating compliance with this condition is to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Public safety and proper maintenance of Council land.

40. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

41. **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 2018

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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, 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 Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

42. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

43. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

44. **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.

45. **Maintenance of works and structures on Council land**

The applicant and/or any person benefitting from this consent is ensure the correct maintenance of any works and structures located on Council land that are associated with the subject land and any works subject to this consent, in accordance with the provisions of Section 142 of the Roads Act 1993.

Reason: To ensure the proper maintenance of any ancillary structures located on Council land.

46. **Use of Council road reserve**

The area of the Council road reserve located between the existing fencing (and that proposed to be modified by this consent) and the front boundary of the land subject to this consent, is to be used only for landscaping purposes. No storage of private property or goods are permitted.

Reason: Public safety and proper maintenance of Council land.

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

Signed



Nick England, Planner

The application is determined on 30/06/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments