

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1692
Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 5 DP 26744, 11 Catalina Crescent AVALON BEACH NSW 2107
Proposed Development:	Alterations and additions to an outbuilding
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Charles Sutcliffe Mort
Applicant:	Philip James Low
Application Lodged:	04/12/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/12/2023 to 18/01/2024
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 68,860.00

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to a residential property in the following ways:

- Remove the existing deck between the structures.
- Reconstruct the detached structure to create a home office with bathroom and storage room.
- A timber deck located off the home office with 1.8 metre high screens along the southern and western elevations.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures

Pittwater 21 Development Control Plan - D1.5 Building colours and materials

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 5 DP 26744 , 11 Catalina Crescent AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Catalina Crescent.</p> <p>The site is irregular in shape with a frontage of 18.415m along Catalina Crescent and a maximum depth of 76.265m. The site has a surveyed area of 1160.0m².</p> <p>The site is located within the R2 Low Density Residential zone within the <i>Pittwater Local Environmental Plan 2014</i> and accommodates a one (1) and two (2) storey residential dwelling within a landscaped setting. There is an existing outbuilding along the northern boundary line within the rear yard and a chicken coop along the southern boundary line within the rear yard.</p> <p>The site has an easterly orientation and is located on a slope of approximately 3.57 metres (or 5.4%), falling from the street frontage toward the rear boundary line.</p> <p>The site is not known to have any threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential developments of similar bulk and scale, some with detached outbuildings within the rear yard.</p>

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:

- **N0720/06.** This development application sought consent for alterations and additions to the dwelling. This application was approved, subject to conditions, on 19 April 2007. A modification application was sought to modify N0720/06. The modification application was granted approval, subject to conditions, on 24 July 2007. Another modification application was sought to modify N0720/06. This modification application was granted approval, subject to conditions, on 1 September 2011.

APPLICATION HISTORY

Additional information was requested in relation to issues identified by Council's Landscape Officer, Bushland and Biodiversity Officer, Flood Engineer and Riparian Lands and Creeks Officer, as well as issues relating to the scales of the proposed architectural plans. This information was requested, via a Request for Further Information letter, dated 2 February 2024. Additional information was provided to Council, via the NSW Planning Portal, on 16 February 2024. This information did not require re-notification in accordance with Council's Community Participation Plan (CPP).

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)(iia) – 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 in relation to issues identified by Council's Landscape Officer, Bushland and Biodiversity Officer, Flood Engineer and Riparian Lands and Creeks Officer, as well as issues relating to the scales of the proposed architectural plans. This information was requested, via a Request for Further Information letter, dated 2 February 2024. Additional information was provided to Council, via the NSW Planning Portal, on 16 February 2024. This information did not require re-notification in accordance with Council's Community Participation Plan (CPP).</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this</p>

Section 4.15 Matters for Consideration	Comments
	<p>application.</p> <p>Clauses 62 and/or 64 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>Clause 69 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>Clause 69 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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/12/2023 to 18/01/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Wayne Gordon Brown	PO Box 39 AVALON BEACH NSW 2107
Withheld	RHODES NSW 2138

The following issues were raised in the submissions:

- Supportive, as more people are working from home
- Site history of unauthorised works
- Advisement of proposed works
- Non-compliance with the Code of Conduct for Short-term Rental Accommodation Industry
- Removal of significant tree
- Lack of parking facilities
- Privacy impacts

The above issues are addressed as follows:

- **Supportive, as more people are working from home**

One submission has been received which stated support for the proposed development, given that more people are working from home.

Comment:

This submission of support is noted.

- **Site history of unauthorised works**

The submissions raised concerns that the structure that is the subject of this DA has already been constructed and unlawfully used as separate residential accommodation. The submission notes that the current DA is to seek backdated approval to legitimise and extend the unapproved structure and use. The submission further details the Applicant has historically disregarded noise pollution requirements during the construction of the cabin, which has had a detrimental impact upon the use and enjoyment of adjoining properties, subsequently impacting upon the mental and physical wellbeing of occupants of adjoining and nearby properties.

Comment:

This is noted. Any past construction works undertaken on the subject site that generated noise is not for consideration under this development application. The proposed development seeks to amend the existing cabins and construct a home office, storage area and bathroom. The proposed development has been assessed against all relevant controls of the PLEP 2014 and P21DCP, and this assessment has found that the proposed works are reasonable in the context of the site and its surrounds. Should this application be approved, nothing within the consent grants, or implies, approval for separate residential accommodation.

These issues do **not** warrant reason for refusal of this application.

- **Advisement of proposed works**

The submissions raised concerns that adjoining and nearby property owners were not made aware of the intention to lodge a development application with Council. The submission notes that while this is not a requirement of the development application lodgment process, it shows the Applicant's willingness to stretch the truth and push the boundaries of the law.

Comment:

As acknowledged within the submission, notifying neighbours is not a requirement for Applicant's or home owners. Adjoining and relevant nearby properties are notified during the formal notification period of 14 days, as stipulated within Council's Community Participation Plan (CPP). Relevant adjoining and nearby properties were notified, in accordance with Council's CPP.

This issue does **not** warrant reason for refusal of this application.

- **Non-compliance with the Code of Conduct for Short-term Rental Accommodation Industry**

The submissions raised concerns that the owners of the site do not comply with the Code of Conduct for Short-term Rental Accommodation Industry, and the submission has provided a link to booking.com for the advertisement of a property titled 'Avalon Beach Cottage - The Islander, Avalon'. The submission raises concern that the advertisement of this property as a short-term residential accommodation adversely impacts upon the neighbouring properties as check-in time is permitted after midnight.

Comment:

This concern is not clear as to whether it relates to the existing dwelling house on the site or the as-constructed existing cabins in the rear yard. Notwithstanding, approval is not required from Council to use a property for short-term residential accommodation. Whether the site is used for short-term residential accommodation is not for consideration under this development application.

This issue does **not** warrant reason for refusal of this application.

- **Removal of significant tree**

The submissions raised concern with the removal of a significant tree within the rear yard. The submission notes the removal of this tree is inconsistent with Clause 7.6 Biodiversity of the PLEP 2014 and that the felling of this tree would erode the landscape character of the site, and be in contravention of Council's tree preservation order. Further, the submission notes that the height and age of the tree would destabilize the soil and root zones of other established trees within the immediate vicinity. The submission requests that this tree should be protected and retained.

Comment:

The application has been reviewed by Council's Landscape Officer and Bushland and Biodiversity Officer. Council's Landscape Officer noted that the tree proposed for removal is an Avocado tree, and that this tree species is listed on Council's exempt tree species list and can, therefore, be removed without consent.

This issue does **not** warrant reason for refusal of this application.

- **Lack of parking facilities**

The submissions raised concerns that the proposed development will increase the need for additional parking, noting that the existing occupants of the dwelling have four (4) vehicles, and only two (2) on-site parking spaces. The submission notes that when the subject site is used as a short-term residential accommodation, vehicles park on the nature strip as well as out the front of adjoining and nearby properties. The submission notes that the existing use of the site unreasonably impacts upon traffic congestion along Catalina Crescent.

Comment:

The use of the subject site is a residential dwelling and, in accordance with the requirements for on-site parking provisions as stipulated within B6.3 of the P21DCP, the subject site meets the minimum requirement, any surplus vehicles are then expected to park on the public street, where it is safe and legally permitted to do so (as in, not in a 'no parking' area). The proposed development seeks to provide a home office and storage area and, therefore, does not trigger the need for additional on-site parking.

This issue does **not** warrant reason for refusal of this application.

- **Privacy impacts**

The submissions raised concerns that the entrance to the proposed home office and south-facing windows will unreasonably overlook the rear yard of adjoining properties. The submission requests that the main entrance to the structure be placed along the eastern elevation, and that any south-facing windows have a sill height of 1.7 metres above the finished floor level, or be frosted/glazed for any part of the window below 1.7 metres.

Comment:

The windows and entry door along the southern elevation is sited 14.35 metres from the southern most point of

the structure to the existing bungalow on the property to the south. The proposed deck is sited 9.2 metres from the shared southern boundary. The proposal also includes a 1.8 metre high privacy screen along the southern elevation of the deck. In this instance, and in accordance with the requirements as stipulated under C1.5 Visual Privacy of the P21DCP, the proposed development provides a reasonable level of privacy between properties.

This issue does **not** warrant reason for refusal of this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality <p>The proposed works require the removal of one exempt species (Avocado) which does not require Council consent for management or removal. All other trees are noted for retention including native prescribed trees.</p> <p>A Arboricultural Impact Assessment (AIA) report is submitted to determine the impact to the existing Paperbark tree located in close proximity to proposed works, and conditions shall be imposed to ensure any excavation and construction works near the Paperbark is undertaken in accordance with the recommendations of the AIA report.</p>
NECC (Bushland and Biodiversity)	<p>AMENDED COMMENTS</p> <p>Amended plans and an Arboricultural Impact Assessment have been provided. The supplied AIA concludes that tree sensitive measures will have to be used to ensure retention of the prescribed tree identified (Tree 1 - Melaleuca quinquenervia). The report also states that the current footings do not appear to have impacted upon the health of tree.</p> <p>Conditions are recommended if the application is to be approved in its current form.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>ORIGINAL COMMENTS</p> <p>The proposal seeks approval for Alterations and additions to a dwelling house. The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • Pittwater LEP - Clause 7.6 Biodiversity Protection <p>The application would require the removal of a single tree which is an exempt species. No objections are raised in relation to this removal.</p> <p>However, it is noted that the landscape referral has requested additional information to ensure that no impacts would take place on a prescribed tree which is found within 5 metres of the proposed alterations and additions. Therefore, the Biodiversity referral will be concluded upon reception of the required reports for final assessment on impacts to natural values on the site.</p>
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016;

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, 2.11 & 2.12); • Relevant LEP and DCP clauses. <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Philip Low dated November 2023, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>Estuarine Risk Management The subject property has also been identified as affected by estuarine wave action and tidal inundation - future exposure on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>On internal assessment its was shown that the EPLs are identified as 2.57m for 2050 and 3.07m AHD for 2100. The FLB for this site is 4.02m which is above both EPLs. Hence, the application does not require to have an estuarine risk management report.</p> <p>No other coastal issues.</p>
NECC (Flooding)	<p>The proposal is for the alteration of two cabin structures in the rear of the property. The development includes the construction of an ancillary structure to join the two cabins, the addition of a toilet and extensions to the existing cabins.</p> <p>The development site is mostly within the Medium Risk Flood Planning Precinct. The western end of the proposed development is within the High Risk Flood Planning Precinct. The site has the following flood characteristics:</p> <ul style="list-style-type: none"> • Flood Planning Level (FPL): 4.02m AHD • 1% AEP Flood Level: 3.52m AHD • 1% AEP Hydraulic Category: Flood Fringe, Flood Storage, Floodway • Probable Maximum Flood (PMF) Level: 5.56m AHD • PMF Life Hazard Category: H5 <p>The revised architectural plans show an excavated area under the deck, on the western end of the cabins. These plans show no net loss of flood storage and do not negatively impact flood behaviour. Successfully demonstrating compliance with the flood behaviour development controls.</p> <p>The updated flood emergency plan successfully demonstrates compliance with flood emergency development controls.</p> <p>Subject to the following conditions, the proposal generally complies with section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP.</p>

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy. <p>This proposal is not supported as it does not comply with section 5.5 of the Water Management for Development Policy. The stormwater design needs to include either an absorption pit or a level spreader as the development cannot connect with council stormwater system. Suggest the applicant update plans to show the location of a level spreader.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The development application was referred to Ausgrid. Ausgrid responded stating that a 'response was not required'.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs 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

This development application is not required to be accompanied by a BASIX Certificate as the detached structure is not a habitable space, by virtue of the definition of 'Habitable Room' as it appears in the National Construction Code (NCC):

Habitable room: A room used for normal domestic activities, and—

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre and sunroom; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic

darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

Comment:

It can be argued that the home office is an 'other space of a specialised nature occupied neither frequently nor for extended periods', and therefore, can be excluded from the definition of a habitable room. Additionally, the storage area and bathroom are not considered to be habitable rooms, as per the definition above.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

This Clause applies to the subject site. The proposal was referred to Council's Coast and Catchments Officer, and no issue were identified. As such, it is considered that the proposal can achieve the matters as prescribed within the above Clause, subject to recommended conditions.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—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:

This Clause applies to the subject site. The proposal was referred to Council's Coast and Catchments Officer, and no issue were identified. As such, it is considered that the proposal can achieve the matters as prescribed within the above Clause, subject to recommended conditions.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:

- a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for
 - ii) members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iv) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - v) Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
- b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse impact referred
 - ii) to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This Clause applies to the subject site. The proposal was referred to Council's Coast and Catchments Officer, and no issue were identified. As such, it is considered that the proposal can achieve the matters as prescribed within the above Clause, subject to recommended conditions.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposed development does not trigger the need for a coastal management program to be prepared and submitted to Council for consideration within the assessment of the proposal.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	6.5m	8.7m - 13.0m	N/A	Yes
Side building line	Southern Boundary 2.5m	9.2m - 10.14m	N/A	Yes
	Northern Boundary 1m	0.9m	10%	No
Building envelope	Southern Elevation 3.5m	Within envelope	N/A	Yes
	Northern Elevation 3.5m	Within envelope	N/A	Yes
Landscaped area	50% (580.0m ²)	58.8% (682.0m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	Yes	Yes

Detailed Assessment

C1.14 Separately Accessible Structures

The proposed structure seeks to have a full bathroom. The entrance to the proposed home office is located approximately 23 metres to the rear access of the principle dwelling. In this instance, it is considered reasonable to permit a full bathroom within the home office. A condition will be recommended to ensure that, should this application be approved, the home office and storage area will not be used as a secondary dwelling or separate habitation.

D1.5 Building colours and materials

A schedule of colours and materials has not been provided with this application. However, the Statement of Environmental Effects, on page 32, states that *'The external walls of the Proposed Development will be painted. The selected colour will be a dark and earthy tone and adopt one of the colours within the range described in Controls Part D1.5 of the DCP. This will ensure that the building blends in with the natural environment and does not stand out'*.

In this instance, a condition will be recommended to ensure compliance with the above statement. As conditioned, the proposed development can achieve the outcomes of this control.

D1.9 Side and rear building line

Detailed description of non-compliance

This control requires the following minimum side setbacks:

- 2.5 metres on one side
- 1.0 metres on the other side

The control also requires the following minimum rear setback:

- 6.5 metres

The proposed development achieves compliance with the rear setback requirement, as well as the 2.5 metre side setback requirement to the southern boundary. The proposal does not, however, achieve compliance with the 1.0 metre side setback requirement to the northern boundary, as the proposed built form will result in a setback distance of 0.9 metres, which presents a 10% variation to the requirement.

Merit consideration

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

- *To achieve the desired future character of the Locality. (S)*

Comment:

Under A4.1 Avalon Beach Locality under the P21 DCP, the proposal is consistent with the objectives of the desired future character of Avalon Beach.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The extent of non-compliance is minor. The proposed structure, while setback 0.9m from the northern boundary, will not cause any unreasonable amenity impacts upon the adjoining property to the north in that it is a single storey structure with a compliant maximum building height. In this instance, the bulk and scale of the built form is appropriately managed, and subsequently minimised.

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

Comment:

For the reasons as detailed above, the proposed development does not cause unreasonable impacts upon the equitable preservation of views and vistas to and/or from public/private places.

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

Comment:

As above, an acceptable level of view sharing can be achieved.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment:

Multiple windows are proposed along the northern elevation. Five (5) windows have a sill height of 2.1 metres, and one (1) window has a sill height of 1.7 metres when measured from the finished floor level. In this instance, the sill heights minimise direct overlooking into the adjoining property. As such, the proposal provides a reasonable level of privacy between properties. As detailed on the shadow diagrams provided, the proposed development achieves compliance with the solar access requirements stipulated within control C1.4 Solar Access of the P21DCP. For these reasons, the proposal provides a reasonable level of amenity for the subject site and to the adjoining residential properties.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

One (1) tree is proposed for removal. However, as indicated by Council's Landscape Officer, this is an exempt tree species (Avocado) and can be removed without consent. No further vegetation is required for removal. The streetscape will not be impacted as a result of the proposed development, as the proposed works are sited within the rear yard. The rear yard, particularly along the western rear boundary, has multiple canopy trees which will be retained and will continue to provide substantial landscaping and a mature tree canopy on the subject site.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

The extent of non-compliance does not impact upon access throughout the site. As such, access throughout the site shall remain.

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

Comment:

As above, one (1) tree is proposed for removal. However, this is an exempt tree species and can be removed

without consent. Council's Landscape Officer has reviewed the proposal and supporting documentation and no issue were raised, subjected to recommended conditions.

- *A landscaped buffer between commercial and residential zones is achieved. (En, S)*

Comment:

The subject site is not adjacent to a commercial zone. As such, this outcome does not apply.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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 DA2023/1692 for Alterations and additions to an outbuilding on land at Lot 5 DP 26744, 11 Catalina Crescent, AVALON BEACH, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the detached structure (encompassing a home office, bathroom, and storage room) for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed within the approved detached structure.

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

2. **Approved Plans and Supporting Documentation**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
-	A	Site Plan	Philip Low	16 February 2024
-	A	Floor Plan	Philip Low	20 November 2023
-	A	Elevations & Section AA	Philip Low	20 November 2023
-	A	Elevations	Philip Low	20 November 2023
-	A	Flood Emergency Pedestrian Evacuation Route	Philip Low	16 February 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Waste Management Plan	-	Philip Low	22 November 2023
Flood Management Report	-	Philip Low	27 July 2023
Arboricultural Impact Assessment	-	Bluegum Tree Car and Consultancy	February 2024
Flood Emergency Response	-	Philip Low	14 February 2024
Stormwater Management Plan	A	Philip Low	16 February 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition

prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

3. 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	Not dated

(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.

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.
- Demolition and excavation works are restricted to:
- 8.00 am to 5.00 pm Monday to Friday only.
- (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of 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 following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (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

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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Footing Design Near Trees to be Retained

- a) footing structural layout plans for the works shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following test digging to locate a suitable space for piers between structural roots greater than 50mm diameter. This must be undertaken using hand tools with care taken not to injure tree roots.
- b) the Arborist shall submit certification to the Certifier, that the locations of the footings are accepted.
- c) the agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

8. Flood effects caused by development

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.52m AHD.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

9. Building components and structural soundness

B1 - All new development below the Flood Planning Level of 4.02m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 4.02m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 4.02m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

10. Floor levels

C1 - New floor levels within the development shall be set at or above the Flood Planning Level of 4.02m AHD.

C3 - The underfloor area of the new development below the 1% AEP flood level is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. 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 Principal Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

12. Water Quality Management

The applicant must install a filtration device (such as a sediment control pit or absorption trench or flow spreader) to control organic matter and coarse sediments prior to discharge of stormwater from the land. 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.

13. Stormwater Drainage Disposal

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

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

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

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

Reason: To ensure satisfactory management of stormwater.

14. Boundary Identification Survey

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

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

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

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

15. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have

been completed and the site is sufficiently stabilised with vegetation.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

16. Privacy Screen

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern edge of the timber deck located off the home office as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a minimum spacing of 10mm, and no more than 20mm), in materials that complement the design of the approved development.

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

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

17. 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.

18. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

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

19. External Finishes to Walls

The external finish to the walls shall have be a dark and earthy tone, consistent with the permitted colours within Control D1.5 Building Colours and Materials of P21DCP, which includes: black, dark grey, dark green, dark brown, mid grey, green, brown and dark blue.

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

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

20. 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

21. 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: sections 7.1, 7.2, 7.3 and 7.4.

All tree protection measures specified must: be in place before work commences on the site; be maintained in good condition during the construction period; and 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.

22. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

DURING BUILDING WORK

23. Tree and Vegetation Protection

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

- i) all prescribed trees within the site,
- 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 the recommendations of the approved Arboricultural Impact Assessment,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; 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; and structures are to bridge tree roots at or >25mm (Ø) diameter,
- iii) 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,
- iv) 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,
- v) 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 as complaint to AS4970-2009 Protection of trees on development sites, and the recommendations of the approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

24. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

25. **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: To protect the receiving environment.

26. **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.

27. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

28. **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.

29. 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.

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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

31. Certification of Works as Executed

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

1. Floor levels are set at or above the required level.
2. There has been no filling on the land other than what has been approved.
3. Openings are provided under floor areas where required for the free passage of flood waters.
4. A copy of the Flood Emergency Evacuation Plan is located within the proposed cabin structure in a location known and accessible to all occupants.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

32. Building Components and Structural Soundness

B2 - A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Flood Planning Level of 4.02m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 4.02m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

33. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) 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. **Stormwater Drainage Disposal Certification**

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

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

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

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

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

Reason: To ensure satisfactory management of stormwater.

35. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

Signed



Megan Surtees, Planner

The application is determined on 08/04/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments