

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0575
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 12 DP 25461, 8 Bilkurra Avenue BILGOLA PLATEAU NSW 2107
Proposed Development:	Construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David Mornington Wilson
Applicant:	Metricon Homes Pty Ltd

Application Lodged:	05/06/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	18/06/2019 to 02/07/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 611,329.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal involves construction of a new two storey dwelling comprised of the following:

Ground floor

- Double garage
- Entry
- Study/guest bedroom with ensuite
- Study
- Open plan Family/Kitchen/Dining
- Outdoor Room located off Family and Dining rooms

First floor

- 4 Bedrooms, 1 with ensuite
- Bathroom
- Leisure room
- Front balcony

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 12 DP 25461 , 8 Bilkurra Avenue BILGOLA PLATEAU NSW 2107
Detailed Site Description:	<p>The site is a generally rectangular shaped lot, located on the western side of Bilkurra Avenue. It has a width of 18.29m, depth of 45.72m, and area of 828.3sqm.</p> <p>There is an existing one storey dwelling on site, with associated driveway and paved areas. There are two native trees in the rear yard area.</p> <p>Surrounding development consists of detached dwellings of various heights and styles.</p>

Map:



SITE HISTORY

The site has a history of residential use. There is another application currently lodged with Council (DA2019/0850) for a swimming pool to the rear of the dwelling proposed under this application.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allows Council to request further information. The applicant was required to provide additional information in relation to root mapping. Clarification was also sought regarding the proposed retaining wall and height of the building.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability 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 development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the

relevant Development Control Plan.

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

Name:	Address:
Mr Michael Ivan Bilic	34 Glenwall Street KINGSGROVE NSW 2208

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

- Solar access
- Air conditioner location

The matters raised within the submissions are addressed as follows:

- **Solar access**

Concern was raised regarding overshadowing of the neighbouring property to the south, and it was requested that the shadowing be minimised.

Comment: The applicant provided a response to this issue, stating that options had been considered including reducing floor to ceiling heights or a reduced roof pitch, however neither option would provide a beneficial solution to address the overshadowing, and would be detrimental to the home and grandeur of the suburb. The applicant did not therefore wish to amend the plans in this regard.

The design provided easily complies with the minimum requirements of clause C1.4 Solar Access of the PDCP. Further, the proposal complies with all relevant built form controls, including height and envelope controls, and has a minimum side setback of 3.2m to the southern side boundary. The overall height of the building is generally well below the 8.5m height limit, and only the peak of the roof approaches this height (8.3m maximum).

Given the level of compliance with the built form controls, and that the house is generally well within the minimum requirements of these controls, combined with compliance with the minimum requirements for solar access to the southern neighbour being achieved, amendment or refusal of the application is not considered warranted based on this issue.

- **Air conditioner location**

Concerns were raised with the location of the air conditioning unit on the southern elevation of the proposed dwelling. It was requested that it be moved to the northern elevation.

Comment:

Moving the air conditioning unit to the other side of the dwelling is not considered an acceptable outcome, as this is an issue that may potentially require re-notification of the application to allow the northern neighbour to comment. Further, the difference in minimum side setback on each side is minimal.

The rear of the proposed dwelling is almost entirely taken up by windows and doors, and there is not a practical location for the air conditioner at the ground level on that elevation.

A condition is recommended requiring that all sound producing plant, equipment, machinery or

fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

Subject to this condition, the location of the air conditioner as proposed is not considered to be unreasonable, and the issue is not considered to warrant amendment or refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The Landscape Plan and Arborist's Report submitted with the application are noted.</p> <p>The plans indicate 2 <i>Eucalyptus haemastoma</i> located in the rear yard. One is to be retained and one removed. The tree to be removed, T1, is indicated as being suppressed by Tree 2, and containing deadwood, mistletoe (a parasitic plant) and epicormic growth, typical of a tree under stress.</p> <p>The tree has been given a rating of Z4 - Dead, dying, diseased or declining.</p> <p>As such, removal of tree 1 and retention of Tree 2 is not objected to.</p> <p>Conditions requiring replacement tree planting have been included.</p> <p>No objections subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>Updated comments 15/10/2019</p> <p>The applicant has provided an updated Arboricultural Impact Assessment (AIA) report (Michael Shaw, 11/09/2019) and a Root Investigation Statement (Naturally Trees 04/10/2019) which provides a re-assessment / correction of TPZ calculations and encroachments as well as root investigation along the proposed "approx. location of retaining wall" in accordance with AS4970-2009.</p> <p>This information satisfies assessment and reporting requirements to ensure the retention and protection of T2, provided the proposed retaining wall is located in the same alignment as the root investigation trench, i.e. the excavation for the retaining wall is not to be within 5 m of the base of T2. Pruning of this specimen must be undertaken by a qualified Arborist in accordance with AS4373-2007 Pruning of amenity trees.</p> <p>Council's Natural Environment - Biodiversity section raises no objections, subject to conditions.</p>

Internal Referral Body	Comments
	<p>Original comments 03/09/2019</p> <p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.6 Wildlife corridors.</p> <p>The proposal is for the construction of a new two-storey dwelling. One of only two native trees within the property proposed to be removed.</p> <p>The submitted Arboricultural Impact Assessment report (Michael Shaw, 29/04/2019) has incorrectly calculated TPZ encroachment, which sits more at 15-16% for the tree proposed for retention (T2), thus into major encroachment category under AS4970.</p> <p>The property is a large level block, and there is the potential for a minor design change (i.e. deletion of retaining walls) which will result in reduced impacts to the tree proposed to be retained.</p> <p>Conditions of consent will be imposed which requires deletion of the retaining wall and a Project Arborist to undertake the installation of tree protection measures and direct supervision of all ground works within the calculated Tree Protection Zone of T2.</p> <p>No pruning of T2 was proposed. Any pruning of T2 will require separate approval.</p> <p>The submitted Landscape Plan proposes plantings of 2 Tuckeroo trees which are a weedy species. An amended Landscape Plan will be conditioned which replaces this species with a locally native canopy tree species.</p> <p>Council's Natural Environment - Biodiversity section supports the proposal, subject to conditions.</p>
NECC (Development Engineering)	<p>The proposed development increases the impervious area by more than 50 square metres and as such on-site stormwater detention (OSD) in accordance with Pittwater 21 DCP Clause B5.7 is required for the development. A condition for this requirement has been provided to ensure compliance prior to the release of the Construction Certificate. The proposed driveway crossing and internal driveway is satisfactory. No objection to approval, subject to conditions as recommended.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1007970S_02).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	91

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.10 Heritage conservation	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
Front building line	6.5m, or established building lines, which ever is the greater.	7.8m, generally consistent with established building line	N/A	Yes
Rear building line	6.5m	14.2m	N/A	Yes
Side building line	2.5m	N 3m	N/A	Yes
	1m	S 3.2m	N/A	Yes
Building envelope	3.5m	Within envelope both sides	N/A	Yes
Landscaped area	60%	63%	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5$).

95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	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
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.2 Scenic protection - General	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3.9 Building envelope	Yes	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$6,113 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$611,329.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0575 for Construction of a dwelling house on land at Lot 12 DP 25461, 8 Bilkurra Avenue, BILGOLA PLATEAU, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Job No. 700938 Sheet 1 of 11 Revision E	19.08.2019	Metricon
Job No. 700938 Sheet 2 of 11 Revision E	19.08.2019	Metricon
Job No. 700938 Sheet 3 of 11 Revision E	19.08.2019	Metricon
Job No. 700938 Sheet 4 of 11 Revision E	19.08.2019	Metricon
Job No. 700938 Sheet 5 of 11 Revision E	19.08.2019	Metricon
Job No. 700938 Sheet 6 of 11 Revision E	19.08.2019	Metricon

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Aboricultural Impact Assessment, as amended by updated Arboricultural Impact Assessment	29/04/2019, updated/amended 11/09/2019	Michael Shaw
Root Investigation Statement	04/10/2019	Naturally Trees

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	16.05.2019	Metricon Homes

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

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

2. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$6,113.29 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 2019. The monetary contribution is based on a development cost of \$611,329.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. **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 to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

6. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's Pittwater 21 DCP Clause B5.7.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field.

The drainage plans, including engineering certification confirming compliance with Council's requirements, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

8. **Engage a Project Arborist**

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the works. The Project Arborist is to implement pre-construction tree protection measures and direct supervision all works within 5m of significant trees.

Evidence demonstrating Project Arborist engagement is to be provided to the Principal Certifying Authority prior to the issue of Construction Certificate.

Reason: Tree protection in accordance with relevant Natural Environment LEP/DCP controls

9. **Amend Proposal Plans**

The Proposal Plans are to be amended. On Plan no: Job No. 700938 Sheet 1 of 11 Revision E dated 17.10.2019 (Revision and date noted in red by Council), the word "approx." is to be deleted in association with the "Retaining wall by owner" to ensure the proposed retaining wall is located in the same alignment as the root investigation trench, i.e. the excavation extent for the retaining wall is not to be within 5 m of the base of T2.

Details are to be provided to the Principal Certifying Authority prior to issue of any Construction Certificate.

Reason: To ensure the safe retention and protection of T2 to be retained.

10. **Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent.

The Project Ecologist must have one of the following memberships/accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Employment of a project ecologist is to be certified by the Principal Certifying Authority Prior to issue of Construction Certificate.

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

11. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of 2 x Tuckeroo replacement plantings
- Replacement with at least 2 local native canopy tree plantings chosen from the following species; *Eucalyptus haemostoma*, *Angophora costata*, *Corymbia gummifera*, *Angophora*

floribunda, Eucalyptus robusta

The amended Landscape Plan is to be certified by a qualified landscape architect, arborist or ecologist prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

12. **Compliance with Standards**

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

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

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

13. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 30mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 30mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with the Arboricultural Impact Assessment dated 29 April 2019 prepared by Michael Shaw Consulting Arborist and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to

commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

15. Compliance with Arborist's Recommendations – Pre-construction

All pre-construction tree protection measures specified in the submitted arborist reports listed below and these conditions of consent are to be implemented at the appropriate stage of development.

- Arboricultural Impact Assessment (AIA), by Michael Shaw, 29/04/2019, as amended by;
- updated Arboricultural Impact Assessment (AIA) report (Michael Shaw, 11/09/2019), and;
- Root Investigation Statement (Naturally Trees 04/10/2019).

Compliance with pre-construction measures is to be certified by the project arborist and details submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. 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)] and
- 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.
- 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.

17. Vehicle Crossings

The provision of one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/2 NH and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to kerb and grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

18. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

19. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

Reason: Protection of Trees.

20. **Implementation of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans and these conditions of consent. The new landscaping is to be certified in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of the Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

21. **Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in the submitted arborist reports listed below and these conditions of consent are to be implemented at the appropriate stage of development.

- Arboricultural Impact Assessment (AIA), by Michael Shaw, 29/04/2019, as amended by;
- updated Arboricultural Impact Assessment (AIA) report (Michael Shaw, 11/09/2019), and;
- Root Investigation Statement (Naturally Trees 04/10/2019).

In addition, the Project Arborist to undertake the installation of tree protection measures and direct supervision of all ground works within the calculated Tree Protection Zone of T2, and all pruning of T2.

Compliance with these measures is to be certified by the project arborist in writing, including photographic evidence, and details submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

22. Tree Inspection by Ecologist

Tree 1 contains deadwood and cavities and is proposed for clearing are to be inspected by the project ecologist prior to removal. Inspection of tree hollows is to be facilitated by a qualified and experienced tree climber or arborist with the use of an elevated work platform where necessary.

The Project Ecologist must be presented to undertake direct supervision of tree removal to rescue any displaced fauna.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of tree removals and immediately following tree removals..

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

23. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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

24. Authorisation of Legal Documentation Required for Onsite Detention

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineers certification. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

25. Registration of Encumbrances for On-site Stormwater Detention

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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

26. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and

gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces

27. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant 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 NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

28. **Required Planting**

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
2	Native trees capable of attaining a minimum height of 5 metres at maturity	1 x front yard; 1 x rear yard	200mm

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

Reason: To maintain environmental amenity.

29. **Replacement of Canopy Trees**

At least 2 locally native canopy trees are to be planted on site to replace trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with these conditions of consent. Species must be chosen from the following: *Eucalyptus haemostoma*, *Angophora costata*, *Corymbia gummifera*, *Angophora floribunda*, *Eucalyptus robusta*. Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree. Replacement plantings are to be certified as complete and in accordance with these conditions of consent by a qualified landscape architect, arborist or ecologist and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate landscaping in accordance with relevant Natural Environment LEP/DCP controls.

30. **Compliance with Arborist's Recommendations – During and Post-construction**

All tree protection measures to be implemented, as specified in the submitted arborist reports listed below and these conditions of consent are to be implemented at the appropriate stage of development.

- Arboricultural Impact Assessment (AIA), by Michael Shaw, 29/04/2019, as amended by;
- updated Arboricultural Impact Assessment (AIA) report (Michael Shaw, 11/09/2019), and;
- Root Investigation Statement (Naturally Trees 04/10/2019).

Completion of arborist requirements and satisfactory establishment/initiation of post-construction measures is to be certified by the consulting arborist and details submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

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

31. **Replacement of Canopy Trees**

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

Reason: To replace locally native trees in accordance with relevant Natural Environment LEP/DCP controls.

32. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

33. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

34. **Dead or Injured Wildlife**

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

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

35. **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such

that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

Reason: Wildlife protection


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

Signed



David Auster, Planner

The application is determined on 25/10/2019, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager