

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0449
----------------------------	-------------

Responsible Officer:	Nick Armstrong
Land to be developed (Address):	Lot 1 DP 538888, 77 Myola Road NEWPORT NSW 2106
Proposed Development:	Construction of a secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David John Catchlove Mary Dewsall Catchlove
Applicant:	David John Catchlove

Application lodged:	23/03/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	28/03/2018 to 13/04/2018
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval

Estimated Cost of Works:	\$ 143,400.00
---------------------------------	---------------

ASSESSMENT INTRODUCTION

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

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

- determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.13 Pollution Control
 Pittwater 21 Development Control Plan - D10.4 Building colours and materials
 Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 1 DP 538888 , 77 Myola Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Myola Road.</p> <p>The site is irregular in shape with a frontage of 15.475m along Myola Road and a depth of 96.01m. The site has a surveyed area of 2772m².</p> <p>The site is located within the E4 Environmental Living Zone zone and accommodates a single storey cottage 'Bungania' which is a listed heritage item.</p> <p>The site falls from the southeastern corner to the northern side boundary with an approximate slope of 21.3%.</p> <p>The site includes several canopy trees located forward of the existing dwelling with other all vegetation either turf or contained within garden beds.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one, two and three storey low density residential dwellings.</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:

Site History

14/02/2012

Development Application N0390/11 for the alterations and additions to the existing dwelling was granted consent.

22/12/2015

Development Application N0009/15 for the subdivision of one lot into two lots was withdrawn.

Application History

14/05/2018

Additional information was requested for the current application in order to make cosmetic changes to the secondary dwelling to reduce the architectural consistency between the development and the heritage listed cottage "Bungania".

24/05/2018

A meeting was held between Council's Development Assessment Planner, Heritage Advisor and the owners of the subject site to discuss acceptable design options for the secondary dwelling.

01/06/2018

Amended plans were received.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a secondary dwelling.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 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>Clause 50(1A)</u> of the EP&A Regulation 2000 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 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider 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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<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>	<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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 3 submission/s from:

Name:	Address:
Mr Robert Maurice Allo	81 Myola Road NEWPORT NSW 2106
Mr Paul James Devaney	50 Bungan Head Road NEWPORT NSW 2106
Mr Roy Robert McLeod Mrs Leslie-Anne McLeod	12 Irrubel Road NEWPORT NSW 2106

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

- Solar access
- Acoustic privacy
- Access and parking
- Visual privacy
- Stormwater runoff
- Heritage
- Inconsistency with E4 zone
- Development of 'Bungania'
- Use of secondary dwelling
- Insufficient information
- Geotechnical hazard
- Future development at 75 Myola Road
- Character
- Building height
- Floor space ratio

The matters raised within the submissions are addressed as follows:

- Solar Access
Comment:
The development fully complies with Council's solar access requirements to neighbouring properties. The secondary dwelling is located south of the existing dwelling at 75 Myola Road, resulting in no overshadowing to this property. While it is recognised that existing natural light conditions could potentially be affected, this does not form a part of the assessment criteria for solar access under Control C1.4.
- Acoustic Privacy
Comment:
Neighbours raised concerns that the proposal would result in an unreasonable noise impact. The development is not expected to produce noise levels above that of normal residential use. This is to be expected from a residential property.
- Access
Comment:
No amendments are proposed to the existing right of carriageway located within the subject site. One additional parking space is intended to be located in-front of the secondary dwelling. This complies with the minimum requirements for one additional space to be provided for secondary dwellings under Control B6.3. Council's Development Engineer has raised no issues over the additional parking space accessed via the existing shared driveway
- Visual Privacy
Comment:
Concerns were raised in regards to the visual privacy impact to 75 Myola Road. The development includes a front verandah and three windows along the northern elevation that may have the potential to view into this property. However, the neighbouring property contains an existing carport that provides screening to any windows along the southern elevation of this property. Additionally, the proposed landscape plan (L/01, dated 09/12/2017) includes substantial planting along the common boundary of these two properties in the form of 26

x *Syzygium australe* 'Pinnacle' (Lilly Pilly ' Pinnacle') which provides ample landscape screening to act as a natural privacy screen.

- Stormwater Runoff

Comment:

Council's Development Engineer is satisfied with the proposed stormwater and OSD system and has provided conditions of consent to ensure these systems are correctly certified during both the Construction Certificate and Occupation Certificate.

- Heritage

Comment:

Council initially raised issues regarding the architectural consistency of the proposed secondary dwelling on the existing heritage cottage "Bungania". After consultation with the owners/applicant, an amended design to alter some of the architectural features of the secondary dwellings was submitted. Council's Heritage Advisor has provided expanded comments within the 'referral body' section earlier within this report in support of the amended design.

- Inconsistency with E4 Zone

Comment:

Concerns were received by neighbours regarding the development's inconsistency with the objectives of the E4 zone. Secondary dwellings are permissible development within the zone and the development is located on piers to minimise environmental impact. While some trees are intended to be removed, Council's Landscape Officer is in support of the submitted Landscape Plan which proposes suitable replacement planting. The secondary dwelling is single storey, which is consistent with the scale of neighbouring residential development.

- Development of 'Bungania'

Comment:

'Bungania' is the heritage listed cottage at the rear of the subject site which is currently undergoing alterations and additions as approved under Development Application N0390/11. Once work commences, there is no deadline for completion. Should neighbouring residents be after further information in relation to this issue, it is recommended that they contact the relevant Private Certifying Authority.

- Use of Secondary Dwelling

Comment:

Concerns were raised regarding the use of the secondary dwelling for short-term holiday letting. Short-term holiday rental accommodation is exempt development under PLEP 2014 Schedule 2 for residential properties, and secondary dwellings are identified as a means of providing viable affordable rental accommodation for both short and long-term tenants.

- Insufficient information

Comment:

Concerns were received regarding the lack of floor plans and elevations provided with the application. Checking Council's website, the elevations have been correctly included within the external plans that are available to the public. Council has recently adopted to not include floor

plans on the website to protect the privacy of the applicants/owners. Should neighbours wish to view the floor plans a GIPA request should be lodged.

- Geotechnical Hazard

Comment:

Council's Development Engineer has assessed the submitted Geotechnical Risk Report and is satisfied with the report's recommendations in regards to an acceptable level of risk. Conditions have been included for certification to be provided during the Construction Certificate and Occupation Certificate.

- Future Development at 75 Myola Road

Comment:

Council cannot consider the subject development's impact upon a hypothetical development at a neighbouring property. Should neighbours wish to develop their property in the future, thought should be given to the subject development if consent is issued.

- Character

Comment:

Secondary dwellings are common development within the Newport Locality and wider Northern Beaches LGA as a means of providing low impact affordable rental housing. The subject development is single storey in nature and consistent with all but one of Council's built form controls. The development is situated approximately 11.7m from the front boundary and additional landscaping in accordance with Landscape Plan (L/01) will assist with screening the development from public view.

- Building Height

Comment:

The development has been measured at 5.3m above the existing ground level which is entirely compliant with the 8.5m maximum height of buildings requirement. It should be noted that Council has recently adopted an amendment to PLEP 2014 (Amendment No.9) which reduces the maximum allowable height of secondary dwellings within the E4 zone from 8.5m to 5.5m. The proposed development is still located below this height limit.

- Floor space ratio

Comment:

Council does not have a Floor Space Ratio (FSR) control for secondary dwellings, but rather relies on a maximum internal floor space of 60m² or 25% of the floor space of the existing dwelling, whichever the greater. The floor space of the secondary dwelling has been measured at 58.6m² which complies with this requirement.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The landscape outcome of the proposal is acceptable, subject to the protection of existing vegetation proposed to be retained.</p> <p>Councils landscape section has assessed the development application against the following Pittwater 21 DCP 2014 Controls:</p> <p>B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping C1.5 Visual Privacy</p>
NECC (Development Engineering)	<p>I have reviewed all relevant Development Engineering control of Council's DCP and no development Engineering objection is raised to the development subject to conditions.</p>
Strategic & Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred to heritage as it is on a heritage item, and opposite a heritage item.</p> <p>Item – Bungania</p> <p>Item – 2 Palms, 1 Port Jackson Fig and part of castellated stone wall</p>
	Details of heritage items affected
<p>Details of this heritage item, as contained within the Pittwater Heritage Inventory, is:</p> <p>Bungania</p> <p><u>Statement of Significance</u> Bungania, at 77 Myola Road Newport, was built c.1890 by A.G. Yewen as a house for his family, has historic and aesthetic significance as a sandstone cottage dating from the early development of Newport used as an artists' colony. It is the</p>	

Internal Referral Body	Comments
	<p>oldest surviving building on Bungan Head, being part of the early subdivision. The house itself displays significant architectural features such as stone walls, high gothic ceilings and open fireplaces with the stone used quarried from the site. It is an important representative of its type in the locality.</p> <p><u>Physical Description</u> The house is located on a steep sloped site covered with large rocks, trees and ferns with scenic views over Pittwater. View from the street is screened by luxuriant vegetation creating a natural bush setting.</p> <p>The house follows the contours of the hillside and comprises of a rambling single storey house with significant architectural features such as stone walls, high gothic ceilings, iron roof and weatherboard definitions as well as open fireplaces with the stone used quarried from the site. It is importantly representative of its type in the locality.</p> <p>2 Palms, 1 Port Jackson Fig and part of castellated stone wall</p> <p><u>Statement of Significance</u> The 2 Palms & 1 Port Jackson Fig and part of castellated stone wall are a part of prominent ornamental plantings and section of castellated wall reflecting landscape style of the interwar period, with local historical and aesthetic significance.</p> <p><u>Physical Description</u> Two palms, one Port Jackson Fig and part of castellated wall</p>
Other relevant heritage listings	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No
Australian Heritage Register	No
NSW State Heritage Register	No
National Trust of Aust (NSW) Register	No
RAIA Register of 20th Century Buildings of Significance	No
Other	N/A
Consideration of Application	
The proposal seeks consent for the construction of a secondary	

Internal Referral Body	Comments
	<p>dwelling and car park with associated landscaping on 77 Myola Road. The property is listed as a heritage item as it contains the cottage 'Bungania' which is the oldest existing building in this part of Newport. The cottage is set far back into the site, close to the eastern boundary. The proposed secondary dwelling would sit closer to the western boundary of the property, where it adjoins Myola Road. The proposed car park would sit in front of the secondary dwelling but would use the existing driveway.</p> <p>It is noted that previous application N0009/15 proposed to subdivide the property into two lots but was withdraw. Heritage previously suggested to the applicant that a secondary dwelling may be a better option to pursue rather than the subdivision of the site.</p> <p>This proposal was referred to Heritage who in turned referred to it Council's external heritage advisor. The advisor commented that:</p> <p><i>"...there are two clear and key heritage considerations in a review of the application and its impact on the existing cottage, and these revolve around the siting of the proposal and the acceptability of its design in the context of the listed property.</i></p> <p><i>In my opinion, the <u>location</u> of the proposed secondary residence is able to be considered. In the context of this site, and disposition of the listed cottage on it - the proposed location of the secondary residence can be considered as potentially supportable, in heritage terms."</i> The advisor further remarked that <i>"This location is not in my opinion, determinative of the proposa"</i>.</p> <p>However the design and appearance of the secondary dwelling was raised as an issue. The advisor noted current standards and practice with heritage buildings is for new work to be easily read as new. The advisor suggested that by removing a number of more overt references to 20th Century building, the proposal could adopt a more appropriate design that would allow it to be easily read as a later addition to the site, but one that draws on older building styles. Following an on-site meeting with the external heritage advisor and applicant, amended design plans were submitted.</p> <p>The amended plans were once again referred to the external heritage advisor. The advisor noted that the vast majority of suggestions given on site were taken on board by the applicant in the revised design and this would alleviate most of the outstanding concerns with the design of the proposal. However two amendments are proposed to the design which can be dealt with</p>

Internal Referral Body	Comments
	<p>by way of conditions of consent; Proposed condition – Removal of the kitchen window on the northern elevation, listed on the window schedule as W03.</p> <p>Proposed condition – Building colours to be amended to warmer colours. See condition below.</p> <p>It is noted that the proposal is also subject to objections on heritage grounds as it would potentially have negative impact on the significance of the property and its values. However with the revised plans, the proposed secondary dwelling is considered to be an appropriate development outcome. It minimizes negative impacts upon the item, retains what remains of the original property on a single title and preserves the view gained from the approach driveway to Bungania itself.</p> <p>The heritage palm trees, fig and wall are located opposite the subject site at 52 Myola Road. However the road reserve provides adequate separation between the two sites allowing them to be read individually. The proposed works on 77 Myola Road are not considered to impact on this item or its significance.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? A partial HIS has been provided</p> <p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Strategic Planner Robert Moore, External Heritage Advisor</p> <p>DATE: 18 June 2018</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 894205S, dated 23/03/2018).

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

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

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

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	5.3m	N/A	Yes

Compliance Assessment

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

Clause	Compliance with Requirements
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	11.925m	N/A	Yes
Rear building line	6.5m	<6.5m	N/A	Yes
Side building line	2.5m	2.5m	N/A	Yes
	1m	7.3m	N/A	Yes
Building envelope	3.5m	Outside envelope	6%	No
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	78.7%	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 $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.13 Pollution Control

Development includes a gas fireplace which is acceptable.

D10.4 Building colours and materials

Council's heritage adviser has recommended the following colours be provided for the external finishes:

Proposed condition – Building colours to be as follows:

Roof – Colourbond Dune

Gutters – Colourbond Woodland Grey

Walls – Pascol heritage colour Warm Grey

Trim – Dulux Lexicon Half

These colours are generally with Council's external finishes requirements.

D10.11 Building envelope (excluding Newport Commercial Centre)

Slight non-compliance along the northern elevation where a portion of the roof is located outside the envelope parameters. The breach is minor and does not result in an unreasonable amenity impact to the neighbours property. The secondary dwelling complies with the minimum setback distance to the northern boundary of 2.5m and landscaping is intended to be provided within the setback area to minimise the visual impact of the development to this neighbour. This is acceptable.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0449 for Construction of a secondary dwelling on land at Lot 1 DP 538888, 77 Myola Road, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Removal of Kitchen Window**

Proposed condition – Removal of the kitchen window on the northern elevation, listed on the window schedule as W03.

Reason: The proposed kitchen window located on the northern elevation is considered to be incongruous with the overall style of the secondary dwelling. The mid-height backsplash window is a more modern design element that runs counter to the older style that is otherwise adopted as the inspiration for the building. (DACHEBOC1)

2. **Building Colours**

Proposed condition – Building colours to be as follows:

- Roof – Colourbond Dune
- Gutters – Colourbond Woodland Grey
- Walls – Pascol heritage colour Warm Grey
- Trim – Dulux Lexicon Half

Reason: The proposed colours are considered to be warmer colours that are more responsive to the context of Bungania. (DACHEBOC2)

3. **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
A.01	August 2017	Superdraft
A.02	August 2017	Superdraft
A.03 Revision 01	29 May 2018	Superdraft
A.04 Revision 01	29 May 2018	Superdraft

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

Geotechnical Risk Report Ref. 6528-GR-1-1	13 December 2018	Alliance Geotechnical
BASIX Certificate, Ref. 894205S	23 March 2018	Arkitekton
Arboricultural Impact Report	8 March 2018	Growing My Way

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01	9 December 2018	Discount Landscape Plans

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

4. Prescribed Conditions

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

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

- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative Requirement (DACPLB09)

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) 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.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

6. **Compliance with Standards (Crown Land Only)**

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

FEES / CHARGES / CONTRIBUTIONS

7. **Security Bond**

A bond (determined from cost of works) of \$1,500 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

8. **On-site Stormwater Detention Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's PITTWATER DCP21 clause B5.7. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

9. **Vehicle Driveway & car parking**

Driveway and car parking for the secondary dwelling within the private property are to comply with Council Pittwater 21 DCP 2004 and AS/NZS 2890.1:2004 Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure vehicular access and parking to private property

10. **Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Alliance Geotechnical dated 13 December 2017 are to be incorporated into the construction plans

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

Reason: To ensure geotechnical risk is managed appropriately.

11. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney

Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Tree protection

A) Existing trees and vegetation shall be retained as reported and recommended in the Tree Management- Development Application for Secondary Dwelling report, submitted by Growing My Way , Tree Consultants dated 8/05/2018, and prepared by Kyle A Hill Senior GMW Practicing/Consulting Arborist Tree Services:

i) all trees and vegetation not listed to be removed, within the site and the road reserve, nominated within the Tree Management Development Application

shall be protected during all construction stages, including the all un-identified trees shown on Landscape Plan L/01 Submitted by discount landscape plans submitted 9/12/17,

ii) all other trees and vegetation located on adjoining properties and street reserve.

B) Tree protection shall be undertaken as follows:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development sites, with particular reference to Section 4.

ii) any tree roots exposed during excavation within the TPZ must be assessed by an Arborist. Details

including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

iii) to minimise the impact on trees and vegetation to be retained and protected, 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,

iv) no tree roots are to be cut from protected trees unless authorised by an Arborist on site,

v) all structures are to bridge tree roots unless directed by an Arborist on site,

vi) should either or both iv) and v) occur during site establishment and construction works, the Arborist shall provide recommendations for tree protection measures provided. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites, and protect the existing amenity that trees and/or bushland vegetation provide.

(Control B4.22)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **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.

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

14. **Application for Authorisation of Legal Documentation Required for Onsite Detention**

An Application for the Authorisation of Legal Documentation required for Onsite Detention must be submitted to Council. 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), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. 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.

15. **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.

16. **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 the 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 the Department of Lands. 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

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

18. **Restoration of Damaged Public Infrastructure**

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

Reason: To ensure public infrastructure is returned to the state it was in prior to development

19. **New Retaining Wall**

The proposed retaining wall extension as shown on Landscape Plan L/01 submitted by Discount Landscape Plans dated 09/12/2017 shall be made of stone matching the existing walls to enhance the landscape and to keep with in of the character of the existing landscape.

Reason: To maintain the existing character of the natural landscape (Control C1.1)

20. **Landscape Screening**

Screen planting as shown on landscape plan L/01 for species *Syzygium austral* 'Pinnacle' shall be planted at spacing's of 750mm.

Reason: Preservation of landscape amenity and visual privacy (C1.5)

21. **Landscape Completion**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the Landscape Drawing L/01 submitted by Discount Landscape Designs dated 09/12/2017 and that the retention of the existing landscape as be maintained. (C1.1 Landscaping)

Reason: This is to ensure the landscaping is completed in accordance with the drawing and maintained appropriately

22. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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 compliance with the statutory requirements of Sydney Water. (DACPLF08)

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

23. **Landscape Maintenance**

Any existing landscape required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

Landscape works shall be maintained for minimum of 12 months following practical completion. If any tree, shrub or ground cover required to be planted under this consent fails they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the submitted Landscape Plan L/01.

Reason: To maintain local environmental amenity and amenity and ensure landscaping continues to soften the built form. (Control C1.1)

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

Signed




Nick Armstrong, Planner

The application is determined under the delegated authority of:



Matthew Edmonds, Manager Development Assessments
































ATTACHMENT A
















Notification Plan	Title	Date
 2018/196969	Plan - Notification	23/03/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/196975	Plans - Survey	27/03/2017
 2018/196979	Report - Geotechnical (Appendix)	07/12/2017
 2018/196980	Report - Geotechnical	12/02/2018
 2018/196974	Plans - Stormwater	19/02/2018
 2018/196972	Plans - Landscape	16/03/2018
 2018/196984	Report - Waste Management Plan	20/03/2018
 2018/196983	Report - Statement of Environmental Effects	22/03/2018
 2018/196976	Report - Arborist	23/03/2018
 DA2018/0449	77 Myola Road NEWPORT NSW 2106 - Development Application - New	23/03/2018
 2018/195580	DA Acknowledgement Letter - David John Catchlove	23/03/2018
 2018/196981	Report - Heritage	23/03/2018
 2018/196982	Report - NatHERS Certificate	23/03/2018
 2018/196977	Report - BASIX Certificate	23/03/2018
 2018/196970	Plans - BASIX Stamped	23/03/2018
 2018/196971	Plans - External	23/03/2018
 2018/196969	Plan - Notification	23/03/2018
 2018/196973	Plans - Master Set	23/03/2018
 2018/196966	Cost Summary Report	23/03/2018
 2018/196978	Report - Document Checklist	23/03/2018
 2018/196967	Development Application Form	23/03/2018
 2018/196968	Fee Form	23/03/2018
 2018/196965	Applicant Details	23/03/2018
 2018/197665	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0449 - 77 Myola Road NEWPORT NSW 2106-PR	23/03/2018
 2018/197731	DA Acknowledgement Letter (not integrated) - David John Catchlove	26/03/2018
 2018/197942	Notification Letter - DA	26/03/2018
 2018/197969	Notification Map - DA2018-0449 - 77 Myola Road Newport	26/03/2018
 2018/204784	Building Assessment Referral Response	27/03/2018
 2018/240228	Submission - Devaney	13/04/2018
 2018/236722	Online Submission - Allo	13/04/2018
 2018/242695	Submission - McLeod	17/04/2018
 2018/239856	Catchlove - Notification Sign - DA2018/0449 - 77 Myola Road Newport	17/04/2018

	2018/242702	Submission - McLeod	17/04/2018
	2018/240241	Submission Acknowledgement Letter - Paul James Devaney - SA2018/240228	17/04/2018
	2018/241334	Submission - Devaney	17/04/2018
	2018/244030	Submission Acknowledgement Letter - Roy Robert McLeod & Leslie-Anne McLeod - SA2018/242695	18/04/2018
	2018/244047	Submission Acknowledgement Letter - Leslie-Anne McLeod & Roy Robert McLeod - SA2018/242702	18/04/2018
	2018/291197	Request for Withdrawal of Development Application - David John Catchlove	14/05/2018
	2018/323787	Landscape Referral Response	28/05/2018
	2018/336031	Amended Elevation Plans 77 Myola Rd May 2018.pdf	01/06/2018
	2018/336032	Amended Window Schedule 77 Myola Rd May 2018.pdf	01/06/2018
	2018/336034	Amended Floor Plan 77 Myola Rd May 2018.pdf	01/06/2018
	2018/354330	Amended Plans	12/06/2018
	2018/368273	Heritage Referral Response - DA2018/0449 - 77 Myola Road, Newport	18/06/2018
	2018/417092	Development Engineering Referral Response	06/07/2018
	2018/417876	Amended External Plans	06/07/2018
	2018/444717	Stamped Plans	12/07/2018