

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0586
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Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot 3 DP 1115877, 53 B Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 1115877, 53 A Warriewood Road WARRIEWOOD NSW 2102
Proposed Development:	Demolition works and remediation of the site
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Sekisui House Services (NSW) Pty Limited

Application Lodged:	22/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	30/05/2024 to 27/06/2024
Advertised:	30/05/2024
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 403,942.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Demolition of the existing structures including the following:
 - Two (2) dwelling houses;
 - Various outbuildings/sheds;
 - Two (2) driveways;
 - Fencing;
 - Carport;
 - Inground Pool;
 - Septic Tank; and
- Remediation of the site.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 6.1 Warriewood Valley Release Area

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater 21 Development Control Plan - B3.6 Contaminated Land and Potentially Contaminated Land

SITE DESCRIPTION

Property Description:	Lot 3 DP 1115877 , 53 B Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 1115877 , 53 A Warriewood Road WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of two (2) allotments located on the south-eastern side of Warriewood Road.</p> <p>The sites are regular in shape with a combined frontage of 79.325m along Warriewood Road and a maximum depth of 247.855m. The sites have a combined surveyed area of 16,087m².</p> <p>The site is located within the R3 Medium Density Residential zone from PLEP 2014 and accommodates a two storey dwelling, fibro dwelling, multiple metal sheds, a metal carport, and an inground pool.</p> <p>The sites slope from the front north-eastern boundary</p>

downwards to the rear south-western boundary over approximately 10 metres.

The site contains grass areas, trees, and garden beds.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one and two storey dwelling houses in varying architectural style and design.

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:

DA2021/1478

Development Application for Subdivision of one lot into 22 Community Title Lots including the construction of 21 dwellings, civil works and landscaping.
Withdrawn on 8 March 2022.

PLM2022/0134

Pre-Lodgement Meeting for 18 lot Community Title Subdivision of the Site, including the extension of Lorikeet Grove, an internal road, stormwater works, associated landscaping and demolition of the existing Site improvements to facilitate the future residential development of the Site.
Meeting held on 9 February 2023.

The meeting notes concluded: *The subdivision is supported in principle, however it is noted that a minimum of 30 residential lots are required. In summary, detailed Planning advice in respect of the built form controls setbacks and LOS requirements is limited as no indicative building envelopes have been submitted for consideration. It is recommended that any future DA is supported with a comprehensive set of plans and reports in accordance with the advice provided in these notes.*

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

The south-eastern rear of 53B Warriewood Road is identified as a Vegetation Buffer. There are no works proposed in this portion of the site, as such there is no carrying out of development for any purpose on this portion of the bush fire prone land. Council is therefore, satisfied under Section 4.14 of the Environmental Planning and Assessment Act 1979.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 30/05/2024 to 27/06/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<p>General Comments</p> <p>This application is seeking consent for proposed site preparation works for future residential development. Acid Sulfate soils was tested for through DA2021/1478 and no actual or potential acid sulfite soils (ASS) were found therefore no further investigation into ASS is required.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Contaminated Lands)	<p>General Comments</p> <p>Environmental Health has been requested to provide comment on this proposal for "Demolition works and remediation of the site" in respect of the matter of contaminated lands.</p> <p>The proposed development seeks consent for demolition of structures and site preparation in anticipation of a future residential development.</p> <p>A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been prepared by a geotechnical engineering company.</p> <p>The DSI incorporates previous site sampling and investigations undertaken in 2014 and 2016, with more investigation recently undertaken to establish further requirements of the RAP.</p> <p>Both the DSI and RAP are considered to be appropriate and thorough.</p> <p>Environmental Health supports the proposal and recommends appropriate conditions of consent requiring compliance with the RAP at all stages of the development, from preliminary works, treatment, transport and disposal of contaminants, through to final site validation.</p> <p>Recommendation</p> <p>SUPPORTED - subject to condition</p>
Landscape Officer	<p>The proposed development is for site preparation works only, including demolition of the existing structures and remediation of the development site, as described in reports and as illustrated on plans. All other works including civil works, servicing, landscaping and built form works will form part of subsequent applications.</p> <p>It is noted that existing trees are present within the development boundaries. No Arboricultural Impact Assessment is submitted to indicate tree protection measures to be incorporated during the proposed works. All prescribed trees shall be retained and protection during the proposed works and conditions for a Tree Protection Plan shall be imposed. The following existing trees within 53A Warriewood Road frontage shall be protected by fencing: Angophora, Brushbox</p>

Internal Referral Body	Comments
	<p>and Wattles, and this is to be indicated in the Tree Protection Plan.</p> <p>Additionally, it is noted that at the rear of the property, the site is mapped as located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values Map (BVM) under the Biodiversity Conservation Act and this specific matter is deferred to Council's Bushland & Biodiversity Referral team. The existing trees within this area shall be retained and fencing is also to be provided, and this is to be indicated in the Tree Protection Plan.</p>
NECC (Bushland and Biodiversity)	<p>The following environmental planning instruments have been considered in preparing the response:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 and Regulation 2017 • State Environmental Planning Policy (Resilience & Hazards) 2021 cl. 2.8 Development on land in proximity to coastal wetlands or littoral rainforest • NSW Water Management Act 2000 s91 Activity Approvals • Pittwater LEP 2014 cl. 7.6 Biodiversity, and • Warriewood Valley Landscape Masterplan and Design Guidelines (2000) <p>Previous flora and fauna surveys for the site have also been reviewed, with one identifying degraded patches of the endangered ecological community Swamp Sclerophyll Forest on the site (Ecological January 2019). Subsequent to the 2019 Flora & Fauna Assessment, a small portion in the south east corner of the site is now mapped on the NSW Biodiversity Values Map. The clearing of native vegetation within the Biodiversity Values map area is a trigger for entry into the NSW Biodiversity Offset Scheme.</p> <p>The current application is not accompanied by an ecological assessment, or included the findings of previous assessments. However the SEE states that no significant vegetation will be removed as part of the demolition works. The application nominates eight specific areas for remediation works based on the contamination investigations, however as they are described as indicative only, the potential for impacts to native trees and vegetation cannot be discounted for some of the locations. In particular is proposed area 7 which is located in close proximity to the mapped EEC and BV Map area. This remediation area is required based on the results from test pits marked as TP25 within the Remedil Action Plan (Geotechnique 2024).</p> <p>The application has been nominated as integrated development, and the Department of Planning and Environment-Water has issued General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity Approval (CAA) under the Water Management Act 2000. The assessment conducted by the</p>

Internal Referral Body	Comments
	<p>Water Operations section of the Department of Climate Change, Energy, the Environment and Water concluded that a Vegetation Management Plan was not necessary for the section of Narrabeen Creek adjacent to the development site during the site preparation works, however this may be a requirement of a future CAA for subdivision development of the site. The Warriewood Valley controls will also require a VMP to guide restoration of the riparian corridor as part of a future subdivision development application.</p> <p>As the contamination assessment has not clearly defined the areas requiring remediation, a condition has been applied to ensure that the works in the area of TP 25 (Area 7) will not impact native vegetation that is part of the endangered ecological community and within the BV Map area. If it is revealed that the remediation works will impact native vegetation within this area, then the NSW Biodiversity Offset Scheme (BOS) may be triggered, and the owner/applicant is advised that works must cease, and a modification application submitted including a Biodiversity Development Assessment Report that has been prepared by an assessor accredited under the BOS.</p> <p>Based on the information submitted, it is considered likely that the proposed development will not significantly impact on the ecological integrity of the adjacent coastal wetland, and the development is designed, sited and will be managed to minimise any potential impact.</p>
NECC (Coast and Catchments)	<p>This Development Application is to seek consent for site preparation works at the Subject Site including the following:</p> <ul style="list-style-type: none"> ▪ Demolition of the existing structures ▪ Remediation of the Subject Site <p>The intent of the proposed development is to clear and prepare the Subject to facilitate the future residential development within a timely and orderly manner.</p> <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience and Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021</p>

Internal Referral Body	Comments
	<p>The subject land has been included on the 'Proximity to Coastal Wetlands Area' map under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.8 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Willowtree Planning Pty. Ltd. dated 21 March 2024, the DA satisfies requirements under clauses 2.8 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	The proposal to demolish the existing housing and remediation of the site is supported subject to conditions.
NECC (Flooding)	<p>The proposed development seeks consent for site preparation works including demolition of the existing structures and remediation to remove asbestos and other general solid waste materials, to prepare the site for future residential development.</p> <p>All other works pertaining to the future residential development including civil works, servicing, landscaping and built form works will form part of subsequent application/s.</p> <p>The site is partially affected by the 1% AEP flood event. The structures are generally outside of the 1% AEP extent, however the areas for remediation are mostly within the 1% AEP extent.</p> <p>It is considered that the proposed development will not have a detrimental impact on flooding, provided that there is no filling within the 1% AEP extent and any hazardous materials excavated are removed from the Flood Planning Area as soon as practically possible.</p> <p>Flood extents have not been provided with the DA, so it will be conditioned that there is to be no filling on the south-western half of the property, ie between the pool and the creek.</p>
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021;

Internal Referral Body	Comments
	<p>- Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy.</p> <p>This proposal is supported. Details below.</p> <p>Riparian The site is located adjacent to Narrabeen Creek and as such proposed development must not significantly impact on the biophysical, hydrological or ecological integrity of Narrabeen Creek or the quantity and quality of surface and ground water flows that it receives.</p> <p>Sediment Management Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>
NECC (Water Management)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy); and • Relevant LEP and DCP clauses <p>Water management (quality and hydrology) has no objection to the proposal. The site construction management must follow best practice and guidelines for sediment and erosion controls.</p>
Parks, reserves, beaches, foreshore	<p>The proposed development is for site preparation works only, including demolition of the existing structures and remediation of the development site, as described in reports and as illustrated on plans. All other works including civil works, servicing, landscaping and built form works will form part of subsequent applications.</p> <p>Parks Reserves and Foreshores Referral raise no objections.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Aboriginal Heritage Office	<p>Development Application No. DA2024/0586 Description: Demolition works and remediation of the site Address: 53B & 53A Warriewood Road WARRIEWOOD</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>An Aboriginal Due Diligence Assessment was completed by Biosis in</p>

External Referral Body	Comments
	<p>April 2023.</p> <p>The Aboriginal Heritage Office agrees with the recommendations outlined in the report:</p> <ul style="list-style-type: none"> • Recommendation 1: No further archaeological assessment is required No further archaeological work is required in the study area due to the entire study area being assessed as having low archaeological potential. • Recommendation 2: Discovery of unanticipated Aboriginal objects All Aboriginal objects and Places are protected under the NPW Act. It is an offence to knowingly disturb an Aboriginal site without a consent permit issued by Heritage NSW. Should any Aboriginal objects be encountered during works associated with this proposal, works must cease in the vicinity and the find should not be moved until assessed by a qualified archaeologist. If the find is determined to be an Aboriginal object, the archaeologist will provide further recommendations. These may include notifying Heritage NSW and Aboriginal stakeholders. • Recommendation 3: Discovery of Aboriginal ancestral remains Aboriginal ancestral remains may be found in a variety of landscapes in NSW, including middens and sandy or soft sedimentary soils. If any suspected human remains are discovered during any activity, you must: Immediately cease all work at that location and not further move or disturb the remains. Notify the NSW Police and Heritage NSW' Environmental Line on 131 555 as soon as practicable and provide details of the remains and their location. Not recommence work at that location unless authorised in writing by Heritage NSW. <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
<p>Nominated Integrated Development - DCCEEW - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse</p>	<p>The proposal was referred to Department of Planning and Environment-Water who provided a response (Ref No.IDAS-2024-10388) on 28 June 2024 with General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the <i>Water Management Act 2000</i> (WM Act).</p> <p>The referral response that includes the General Terms of Approval</p>

External Referral Body	Comments
	will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 1 Coastal Wetlands and littoral rainforest area

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The subject sites are located in land identified as "proximity area for coastal wetlands". The proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

Division 5 General

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

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

Comment:

The proposed development is not likely to cause an increased risk of coastal hazards on the land or other land.

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

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

Comment:

There is no certified coastal management program applicable to the land.

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

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Detailed Site Investigation & Remedial Action Plan dated 14 March 2024 prepared by Geotechnique Pty Ltd. In its conclusion, the investigation states:

Based on the Phase 2 CA and DSI, eight locations contain asbestos (AF and FA or ACM fragments) contaminated fill materials, and one location contains Benzo(a)Pyrene TEQ contaminated fill with elevated Benzo(a)Pyrene (BaP) (isomers of PAH) within the site.

Based on the advantages, disadvantages, and risks of each of the remediation options, we consider

that remediation by disposal of the asbestos (AF, FA and ACM fragments) contaminated fill materials in Areas 1 to 7 and PAH contaminated fill materials in Area 8 at an appropriately licensed landfill facility, as indicated on Drawing No 20223/2-AA3, is appropriate for the site.

Based on this assessment, it is our opinion that the site is considered suitable for the future use as residential subdivision subject to implementation of the following recommendations, prior to earthworks:

- Sampling and testing of soils in the footprints of site features such as the houses, building, sheds, carport, concrete, swimming pool, recycled asphalt, gravel, and bitumen covered areas, after complete demolition and removal or clearing and in the footprints of former glass house and two former galvanised iron (GI) sheds.
- Revise this RAP, if required, to remediate any other contamination that might be identified through the recommended additional sampling and testing, followed by appropriate validation. If no other contamination is detected beneath the site features after removal, carry out appropriate remediation and validation of only Areas 1 to 8 as detailed in this report.
- A validation report will be produced at completion of successful remediation by the appointed environmental consultant. The format of the report will follow that recommended in the NSW Environment Protection Authority (EPA), "Consultants Reporting on Contaminated Land" – 2020.

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, sub-section 4.6 (1)(b) and 7(1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that "if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out".

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment should be provided to confirm whether contamination is actually present, at what levels and at what locations. A Phase 2 Environmental Site Assessment has been provided which generally confirms the location and type of contaminants on the site and provides recommendations for the remediation of the site to enable the development to be safely carried out. In this regard, it has been sufficiently demonstrated that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

Sub-section 4.6 (1)(c) stipulates that "if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".

Council's Environmental Health Officer (Contaminated Lands) has reviewed the report and provided referral comments under the Internal Referrals section of this report. In summary, it has been sufficiently demonstrated that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the recommendation of this report.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
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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:	10.5m	Nil	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

6.1 Warriewood Valley Release Area

There are no proposed dwellings under this application. The proposal does not inhibit or restrict the opportunity for future residential development on the land.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 4 and Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The development does not propose any significant excavation to the extent that would lower the water table. Council's Environmental Health Officer (Acid Sulfate) has reviewed the proposal, and is supportable subject to recommended conditions.

7.6 Biodiversity protection

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

(a) whether the development is likely to have:

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

Comment:

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

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

Comment:

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

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

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

Comment:

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

Pittwater 21 Development Control Plan

Built Form Controls

There are no relevant Built Form Controls for this application.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes

Detailed Assessment

B3.6 Contaminated Land and Potentially Contaminated Land

A detailed assessment has been conducted under *State Environmental Planning Policy (Resilience and Hazards) 2021* contained within this report.

In summary, the proposal is supportable subject to recommended conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2024/0586 for Demolition works and remediation of the site on land at Lot 3 DP 1115877, 53 B Warriewood Road, WARRIEWOOD, Lot 2 DP 1115877, 53 A Warriewood Road, WARRIEWOOD, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
-	01	Demolition Plan	Shawood	9 February 2024

-	01	Demolition Plan	Shawood	9 February 2024
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Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Aboriginal Heritage Report	-	Biosis	26 April 2023
Detailed Site Investigation & Remedial Action Plan Report	20223/3-AA	Geotechnique Pty Ltd	14 March 2024
Waste Management Plan - 53a	-	No Author	n.d.
Waste Management Plan - 53b	-	No Author	n.d.

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

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

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

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	6 June 2024
NSW Department of Planning and Environment - Water	NSW Department of Planning and Environment - Water Referral Response (Ref No.IDAS-2024-10388)	28 June 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed conditions (Demolition):

(a) 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 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
- (ii) 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.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be

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

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

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

(c) 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.

Reason: Legislative Requirement.

4. **General requirements (Demolition):**

(a) Unless authorised by Council:

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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.
- (f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (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.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$5,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

6. Construction, Excavation and Associated Works Security Bond(s) Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$20,000.

Details confirming payment of the bond(s) are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

7. Boundary Identification Survey

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

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

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

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

8. Sydney Water "Tap In"

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

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

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o 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

9. Tree Protection Plan

a) a Tree protection plan shall be submitted to the Certifier for approval prior to any commencement, demonstrating tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, to protect the following trees:

- i) within 53A Warriewood Road frontage shall be protected by fencing: Angophora, Brushbox and Wattles,
- ii) existing trees within the 50m riparian zone at the rear of the development property,
- iii) any other prescribed tree within the development property.

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

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

Reason: Tree protection.

10. **Temporary Protection Fencing – Exclusion Zones**

Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected surrounding areas of retained native vegetation on the site as mapped on the site survey. In particular, the trees and native vegetation located in the south-west corner of the site that are mapped on the NSW Biodiversity Values Map must be protected. The remediation works at Area 7, in proximity to this location, must not impact these trees and vegetation (see Indicative Areas to be Remediated, Drawing No: 20223/3-AA3 dated 22 May 2023, Geotechnique Pty Ltd).

Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation and biodiversity values.

11. **Flood Effects Caused by Development**

There is to be no filling on the south-western half of the property, ie between the existing pool and the creek, so as to not reduce the available flood storage below the 1% AEP flood level.

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

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

12. **Installation and Maintenance of Sediment and Erosion Control**

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

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

13. **Storage of Goods**

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards. Any such materials excavated from the property are to be removed from the Flood Planning Area as soon as practically possible.

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

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

14. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to commencement of works.

Details demonstrating compliance are to be submitted to the Certifier prior to commencement.

Reason: To protect native vegetation.

15. Compliance with standards (Demolition)

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 Council prior to the commencement of demolition works.

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

16. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to commencement of works.

Reason: Protection of the receiving environment.

DURING BUILDING WORK

17. Requirement to Notify About New Acid Sulfate Soils Evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

18. Site Contamination

All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a lawful waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination: Protection of the Environment Operations Act 1997; and Environment Protection Authority's Waste classification guidelines.

Reason: To protect human health and the environment.

19. Tree and Vegetation Protection

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

- i) all prescribed trees within the site,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of a Project Arborist as applicable.

Reason: Tree and vegetation protection.

20. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or

watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

21. **Protection of Biodiversity Values**

If in the course to the remediation works it is identified that the trees and native vegetation located in the south-west portion of the site within the Biodiversity Values mapped area will be impacted, then works must cease, and an application for Modification must be submitted to Council. If the consent authority decides that the modification will increase the impact on biodiversity values, a Biodiversity Development Assessment Report (BDAR) is required. For the applicant to demonstrate that the Biodiversity Offset Scheme does not apply, a modification application must include supporting evidence to demonstrate that the modified development does not exceed the entry requirements for the scheme.

Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation and biodiversity values.

22. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 90 percent of the site open space, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

23. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

24. **Demolition Works - Asbestos**

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

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

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

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

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

25. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

26. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

27. **Asbestos**

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

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

Reason: To protect human health.

28. **Compliance with Remedial Action Plan**

The requirements of the Remedial Action Plan, REPORT NO 20223/3-AA dated 14 MARCH 2024 by Geotechnique Pty Ltd required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of an Occupation Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

29. **Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

30. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

31. **Condition of Retained Vegetation**

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

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

Reason: Tree and vegetation protection.

32. Certification of Works as Executed

A suitably qualified engineer or registered surveyor is to certify that there has been no filling on the south-western half of the property, ie between the existing pool and the creek.

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

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

33. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by approved works detailed on approved plans. This includes the trees and native vegetation located in proximity to Remediation Area 7, located within the Biodiversity Values mapped area, in the south-west corner of the site.

Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation and biodiversity values.

34. No Weeds Imported On To The Site

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

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

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

35. Priority Weed Removal and Management

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

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

36. Waste Management Confirmation

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

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

37. Final Certification - Compliance with Remedial Action Plan

Prior to the issue of an Occupation Certificate, certification from an appropriately qualified environmental consultant is to be provided stipulating that the requirements of Remedial Action Plan, REPORT NO 20223/3-AA dated 14 MARCH 2024 by Geotechnique Pty Ltd have been complied with throughout excavation, demolition and development work stages.

The certification shall also include:

- a) A validation and site monitoring report prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.
- b) A detailed survey of all sites used for landfill disposal must be prepared within one month from completion of the remediation work, and submitted to Council.
- c) Identification of the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

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

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

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

38. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

39. Onsite Encapsulation of Contaminated Material

No onsite encapsulation of contaminated material is to occur without approval under a separate DA or modification submitted to Council.

Reason: To allow for a proper evaluation of any proposed encapsulation works and to ensure that any contaminated material is effectively capped and managed long term.

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

Signed



Stephanie Gelder, Planner

The application is determined on 09/07/2024, under the delegated authority of:



Am

Adam Richardson, Manager Development Assessments