

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0667
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 64 DP 752017, 15 Myoora Road TERREY HILLS NSW 2084
Proposed Development:	Construction of a horse arena, horse paddocks and associated works
Zoning:	Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sovana Pty Ltd
Applicant:	Karina Rafailov

Application Lodged:	19/06/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	30/06/2020 to 14/07/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 565,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to:

- Construct a new horse arena and horse paddocks including associated excavation and landfill
- Demolition of existing driveway and crossover
- Construction of a new driveway and crossover
- Construction of new retaining walls
- Construction of a new front fence and gate
- Associated landscaping works and tree removal

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

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - C7 Excavation and Landfill

Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 64 DP 752017 , 15 Myoora Road TERREY HILLS NSW 2084
Detailed Site Description:	The subject site consists of one allotment located on the north western side of Myoora Road. The site is irregular in shape with a frontage of 33.675m, side boundaries of 261.40m and 266.61m, and a rear boundary in two sections with lengths of 40.275m and 59.0m. The site has a surveyed area of 17,390m². The site is located within the RU4 Primary Production Small Lots zone and accommodates two detached brick dwellings, a swimming pool and equestrian arena. Horse stables are currently under construction as part of Complying Development Certificate CDC2019/0884. The site slopes, steeply in some areas, down towards the

north east.

The site contains large grassed areas and numerous established trees, mainly around the boundaries of the lot.

There is a small dam in the north east corner.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by similar semi rural developments on large lots. A public reserve (bushland) is located to the west of the site.

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:

DA2000/3908 - Development Application for additions and a swimming pool - Approved on 8 May 2000.

DA2018/0676 - Development Application for alterations and additions to a dwelling house, the construction of a swimming pool, tennis court, horse arena, horse stables, driveway, front fence and other ancillary works - Approved 6 October 2018

TA2019/0552 - Tree Application for Proposed Removal/Pruning of 20 or more trees - Approved 7 November 2019

CDC2019/662 - Complying Development Certificate for the construction of horse stables, carport and associated site works - Approved 14 November 2019

TA2019/0674 - Tree Application for Removal/Pruning of 6-9 Trees - 3 trees approved for removal 31

December 2019

BLD2020/00911 - Unauthorised structure being built at the rear of the property - Currently under investigation by Council's Compliance Department - structure does not form part of this Development Application

APPLICATION HISTORY

Following concerns from Council regarding discrepancies in the plans, amended plans were received which:

- Reduced the height of the front fence to be no higher than 1.8m from natural ground at the front boundary of the site
- Reduced the extent of site excavation

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000

Section 4.15 Matters for Consideration'	Comments
	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. <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. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Code & Bushfire Hazard Solutions, dated 04 June 2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The

recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/06/2020 to 14/07/2020 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (unsewered lands)	General Comments Environmental Health have been request to provide comment on the proposed development assessment on-site wastewater management has been reviewed as well as two existing Environmental Health understand that should this development be approved the planner existing consent (DA2018/0676) to be surrendered. Based on this any requirements imposed be assessed as part of this referral. The development proposal will result in wastewater generation from two separate dwellings information on how wastewater will be treated and disposed on the site. Council's record AWTS servicing the front property with spray irrigation disposal that has a current approval dwelling with spray irrigation disposal that does not have a current approval to operate. The wastewater proposal by Envirotech referenced as REF-18-5889-A and dated 19 April to trenches from the stables 124m² – and an AWTS to conventional beds for the rear dwelling human and animal wastes and is the preferred method of wastewater treatment and disposal of the front property was not discussed as part of this proposal. The wastewater proposal by Envirotech referenced as REF-19-8985-A1 and dated 13 November connections of wastes from the stable to an existing AWTS with spray irrigation disposal proposal as no additional litres of wastewater were proposed to be generated from the stable domestic AWTS in not in line with the document "Horse property developments in the Sydney catchment authority. This document requires wastes from stables to be separated from catchment uncertain how a certifier has the expertise to assess and sign off on a wastewater treatment development of the stables. Under the current development application no information has been provided regarding the SEE. Based on the provided information and the need for wastewater to be addressed Health recommend refusal due to the lack of information on how wastewater generated from Any information to be provided on wastewater must be developed in line with AS1547:2017 drinking water catchment & the Environment & Health protection guidelines on-site sewerage Amended comments - 22/09/2020 The applicant has written in advising that they would like to provide details for wastewater dwelling prior to CC rather than providing details of what is proposed up front. Environmental on-site for treatment and disposal of effluent from the three waste sources being the front

Internal Referral Body	Comments
	to be imposed requiring a section 68 application to install for the stable prior to CC and a operate prior to OC. Environmental health are satisfied with the proposal and recommend approval with cond Recommendation APPROVAL - Subject to conditions
Landscape Officer	The comments and conditions from Council's Bushland and Biodiversity Section are note No objections are raised subject to conditions including tree protection measures.
NECC (Bushland and Biodiversity)	The proposed development has been assessed against the following provisions: - NSW Biodiversity Conservation Act 2016 - Warringah DCP Clause E1 (Preservation of Trees and Bushland Vegetation) - Warringah DCP Clause E2 (Prescribed Vegetation) - Warringah DCP Clause E6 (Retaining unique environmental features) Vegetation on the rear (western) boundary of the lot is mapped as the critically endangered the the NSW Government's 'Native Vegetation of the Sydney Metropolitan Area' spatial I. Biodiversity Values Map in accordance with the Biodiversity Conservation Act 2016 (BC. appropriate assessment and consent would therefore represent a breach of the BC Act. documentation do not propose works to this area of vegetation and therefore assessmer The submitted arboricultural report (Urban Arbor, 4 June 2020) assesses nine exotic and removed. Removal of three local native trees (T5, T6, T7) for landscaping purposes only not supported. Furthermore, the proposal includes no provision for replanting to replace i compliance with the relevant controls, conditions of consent are recommended to provide

Internal Referral Body	Comments
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NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions:
NECC (Water Management)	The applicant has provided stormwater plans that should adequately deal with water quality and a dam.
Parks, reserves, beaches, foreshore	No works are proposed on Council reserves. No objections are raised subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response

External Referral Body	Comments
	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.
Aboriginal Heritage Office	No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. 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, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections subject to recommended conditions.

Warringah Local Environmental Plan 2011

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	1.8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

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

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

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality. The proposal is supported with a Geotechnical Report which includes recommendations to ensure the maintenance of soil stability. The recommendations of this report would be included within the conditions of any consent.

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

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

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

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

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

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

- (f) the likelihood of disturbing relics*

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

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

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas. The application has been referred to Council's Water Management and Bushland and Biodiversity Officers, who have raised no objection subject to recommended conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of

the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Development on sloping land

The proposal is supported with a Geotechnical Report. The recommendations of this report would be included within the conditions of any consent.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B4 Site Coverage	20%	13.5% (unchanged) (1,457.2sqm)	N/A	Yes
B5 Side Boundary Setbacks	7.5m (North)	Nil (front fence) 1.6m (retaining wall)	N/A	Yes (complies with exceptions within control)
	7.5m (South)	1.4m (front fence) 3.6m (retaining wall)	N/A	Yes (complies with exceptions within control)
B7 Front Boundary Setbacks	Myoora Rd - 20m	2.3m (retaining wall)	N/A	No
	Larool Rd - 20m	109m (horse area)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	70% (12,166sqm)	77%	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - 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
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Easements		
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

Clause B7 of the WDCP 2011 stipulates that development is to be setback at least 20.0m from the front boundary. The proposed retaining wall is setback 2.3m from the front boundary. This represents a variation up to a 88.5% to the numeric control.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The proposed breach relates a low retaining wall and will not impact the openness of the site.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed development is considered to be generally in-keeping with the existing building pattern along Myoora Road and maintains visual continuity with landscaped elements in the front setback area.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The non-compliant retaining wall is considered to be a minimal structure and will not detract from the quality of the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposal will maintain suitable view sharing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

C7 Excavation and Landfill

The proposal incorporates excavation and landfill works over a large portion of the site. As such the proposal have been assessed under the objectives of this clause below.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

To ensure any land excavation or fill work will not have an adverse effect upon the visual and natural environment or adjoining and adjacent properties.

Comment:

The proposal seeks to excavate portions of the land and redistribute over the site to create a more level landscape. Given the proposed location of these works, the proposal is not considered to have an adverse impact on the streetscape.

As much of these land works occur on the northern portion of the site, a condition is recommended that no fill or excavation works greater than 1.0m is to occur within 2.0m of the adjoining northern boundary (adjacent with 17 Myoora Road). Furthermore, additional landscaping is proposed along this boundary which will reduce the visual impacts of the proposal on this neighbour. In order to ensure that there are no adverse impacts on the adjoining neighbour, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;
- Ensure disturbed areas are rehabilitated with indigenous plant species and treated by approved methods of erosion mitigation;
- Ensure the recommendations of the Geotechnical report are adhered to;
- Ensure proposed landscaping on the northern boundary is appropriately maintained.

The proposal has also been assessed by Council's Bushland and Biodiversity and Landscape Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

To require that excavation and landfill does not create airborne pollution.

Comment:

Subject to imposed conditions, it is not considered that the proposed excavation and landfill would not create airborne pollution

To preserve the integrity of the physical environment.

Comment:

The site has been altered over its history. The proposal has been assessed by Council's Bushland and Biodiversity Officer who has raised no objection to the proposal in relation to the impact to the natural environment subject to recommended conditions. The proposal would not remove or alter any significant landscape features.

To maintain and enhance visual and scenic quality.

Comment:

Subject to recommended conditions which ensure disturbed areas are appropriately rehabilitated and landscaping is maintained, the proposal is not considered to adversely impact visual and scenic quality of the area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

E1 Preservation of Trees or Bushland Vegetation

The submitted arboricultural report (Urban Arbor, 4 June 2020) assesses nine exotic and native trees, all of which are proposed to be removed. Removal of three local native trees (T5, T6, T7) for landscaping purposes only has not been adequately justified and is therefore not supported. Furthermore, the proposal includes no provision for replanting to replace trees proposed for removal. In order to achieve compliance with the relevant controls, conditions of consent are recommended to provide for compensatory plantings.

E10 Landslip Risk

A Geotechnical Report was submitted with the application (prepared by White Geotechnical Group, dated 12 June 2020) stating that the proposed development is suitable for the site and that no geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice. The recommendations of the Geotechnical Report have been included as conditions of consent.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$5,650 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$565,000.

Development Application DA2018/0676 for alterations and additions to a dwelling house, the construction of a swimming pool, tennis court, horse arena, horse stables, driveway, front fence and other ancillary works was approved 6 October 2018 and the works have not yet been constructed. The consent is still valid, as it is within 5 years of the approval date.

As much of the proposed works as part of this previous consent conflict with the works proposed as part of the subject application (DA2020/0667), a condition of consent has been imposed which requires the surrender of consent DA2018/0676. This condition has been agreed upon by the applicant.

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;
- Warringah Local Environment Plan;
- Warringah 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 DA2020/0667 for Construction of a horse arena, horse paddocks and associated works on land at Lot 64 DP 752017, 15 Myoora Road, TERREY HILLS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 Rev.A (Site, Excavation/fill & Landscape Plan)	10/09/20	Cadence & Co Design
DA03 (Sections)	06/05/20	Cadence & Co Design
DA04 Rev.A (Sections)	10/09/20	Cadence & Co Design
DA04a Rev.A (Sections)	10/09/20	Cadence & Co Design
DA05 Rev.A (Front Fence Plan)	10/09/20	Cadence & Co Design
DA06 Rev.A (Front Fence Sections)	10/09/20	Cadence & Co Design

Engineering Plans		
Drawing No.	Dated	Prepared By
D01 Issue B (Site Stormwater Drainage Plan)	04/06/2020	NB Consulting Engineers
D02 Issue B (Subsoil Drainage Plan and Details)	04/06/2020	NB Consulting Engineers
D03 Issue A (Sediment and Erosion Control Plan and Details)	01/06/2020	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report Rev.A (200604-15 Myoora Road-AIA)	04/06/2020	Urban Arbor
Bushfire Report (180349C)	04/06/2020	Building Code & Bushfire Hazard Solutions
Geotechnical Investigation Report (J2717)	12/06/2020	White Geotechnical Group

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Site Waste Management Plan (Plan)	-	Cadence & Co Design
Waste Management Plan (Report)	17/06/2020	Cadence & Co Design

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	17/08/2020

(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 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.

(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. **Works in Close Proximity to the Allotment Boundary**

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners

5. **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.

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

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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.

7. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer

management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008

- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

8. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$5,650.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$565,000.00.

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

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

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

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

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

9. **Security Bond**

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

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

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

10. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

11. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- a) The new front fence along the eastern boundary adjoining Myoora Road and No.17 Myoora Road shall be located entirely within the subject site.
- b) Proposed landfill shall not exceed 1.0m in depth within 2.0m of the northern side boundary (adjoining 17 Myoora Road).
- c) Proposed excavation shall not exceed 1.0m in depth within 2.0m of the northern side boundary (adjoining 17 Myoora Road) .

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

12. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

13. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

Reason: To facilitate suitable vehicular access to private property.

14. **Bunded waste disposal area**

A bunded area must be provided for the collection/disposal of horse manure, sufficiently sized to prevent any waste entering the environment and impacting downstream waterways.

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

Reason: Protection of the receiving environment

15. **Approval to Install an On-site Sewage Management System**

Prior to the release of the Construction Certificate (CC), the applicant must receive an 'Approval to Install an On-Site Sewage Management System' from Council for the wastewater generated from the stable.

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

Reason: To fulfil the requirements under Section 68 of the Local Government Act 1993

16. **Tree Replacement**

At least four canopy trees are to be planted onsite to replace trees approved for removal.

Species are to be selected from the following:

Allocasuarina littoralis, *Angophora costata*, *Eucalyptus sieberi*, *Eucalyptus capitellata*, *Corymbia gummifera*, *Eucalyptus umbra*, *Eucalyptus haemastoma*.

New plantings are to be a minimum pot size of 800mm. Plans are to be amended to specify the location and size of each new planting and compliance certified in writing by a qualified landscape architect or a minimum AQF Level 5 arborist. Evidence of compliance is to be

provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To achieve compliance with relevant natural environment controls.

17. Tree Retention

Trees 5, 6 and 7 are not approved for removal. Plans are to be amended accordingly and compliance certified in writing by a qualified landscape architect or a minimum AQF Level 5 arborist. Evidence of compliance prepared is to be provided to the Principal Certifying Authority prior to issue of the construction certificate.

Reason: To retain locally native vegetation in accordance with applicable natural environment controls.

18. 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.

19. Compliance with Standards

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

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

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

20. Surrender of Consent

The applicant shall surrender to Council Development Consent No: DA2018/0676 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

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

Reason: To prevent inconsistencies between consent applying the site (ref s80A (5) EPAA & cl97 EPA Reg).

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

21. Installation and Maintenance of Sediment and Erosion Control

a) Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area, in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

b) 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.

22. No Access through Public Open Space

Site access is not approved for construction of the development through adjacent public land.
(Reason: Safety, landscape amenity, tree protection)

23. Works within Council's Road Reserve or Council owned/managed Land

No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Reason: Protection of public assets, Public liability

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works within Council's Road Reserve or Council owned/managed Land.

24. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land
- iii) all road reserve trees and vegetation.

(b) Tree protection measures:

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection is to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) 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.
- v) No excavated material, building material storage, site facilities, or landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) All tree pruning within the subject site is to be in accordance with the relevant Development Control Plan for Private Property Tree Management and AS 4373 Pruning of amenity trees
- vii) any tree roots exposed during excavation with a diameter greater than 25mm within

the Tree Protection Zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority.

Reason: Tree protection

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. Road Reserve

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

Reason: Public safety.

26. Removing, Handling and Disposing of Asbestos

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

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

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

27. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve and avoid impact on adjoining neighbours.

28. Vehicle Crossings

The Applicant is to construct one vehicle crossing 4.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

29. Site filling - Virgin Excavated Natural Material (VENM)

Where site fill material is necessary, fill materials must:

1. Be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
3. The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal Certifying Authority for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

30. **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 Certifying Authority.

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

31. **Public Tree Protection**

a) Unless identified by the development consent, no tree roots over 25mm diameter are to be damaged or cut and all structures are to be bridged over such roots.

b) Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, the applicant is to immediately contact Council's Public trees section and resolve the matter to Council's satisfaction.

(Reason: Tree management)

32. **Storage of Materials on Council Land Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

33. **Trees Condition**

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

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

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

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

Reason: Protection of Trees.

34. **Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

35. **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 Environment and Climate Change (DECC).

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 DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

36. **Installation and Maintenance of Sediment Control**

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

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

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

37. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

38. **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 prepared by NB Consulting Engineers prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development

activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment

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

39. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. 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 appropriate provision for the disposal of stormwater arising from the development.

40. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment

41. Waste Water System

Prior to the issuing of any interim / final occupation certificate, a copy of a section 68 (Local Government Act 1993) approval to operate must be obtained for all Waste Water Systems located on-site. All waste water system must also be activated and effectively operating to the satisfaction of the Principal Certifying Authority.

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

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

42. Removal of All Temporary Structures/Materials and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

Reason: to protect reserve amenity and public safety.

43. Rehabilitation of Disturbed Areas – Planting

Disturbed areas shall be rehabilitated with indigenous plant species and treated by approved methods of erosion mitigation such as mulching, and revegetation with native grasses or other suitable stabilising processes. The project ecologist is to certify that rehabilitation works are

complete and adequate.

Reason: Environmental management

44. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

45. House / Building Number

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

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

Reason: Proper identification of buildings.

46. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority 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.

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

47. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover 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 approved Landscape Plan.

Reason: To maintain local environmental amenity.

48. New tree planting to be certified

Replacement tree planting as required by these conditions of consent is to be implemented in accordance with the amended and certified plans. Appropriate planting of required trees is to be confirmed and certified in writing by a qualified landscape architect or minimum AQF Level 5 arborist, and written evidence provided to the Principal Certifying Authority prior to any Occupation Certificate.

Reason: To achieve compliance with relevant natural environment controls.

49. No Planting Environmental Weeds

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

Reason: Weed management.

50. **Protection of trees to be certified**

Safe retention of Trees 5, 6 and 7 as required by these conditions of consent is to be confirmed and certified in writing by a qualified landscape architect or minimum AQF Level 5 arborist, and written evidence provided to the Principal Certifying Authority prior to any Occupation Certificate.

Reason: To achieve compliance with relevant natural environment controls.

51. **Dead or Injured Wildlife**

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

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

52. **Control of Domestic Animals**

Domestic animals are to be kept from entering the adjoining National Park at all times.

Reason: Wildlife protection

53. **Protection of vegetation mapped on the Biodiversity Values Map**

No work is permitted within the vegetation at the rear (western boundary) of the property, which is mapped on the NSW Biodiversity Values Map as Duffys Forest Ecological Community. Any impact to this vegetation will require further assessment under the NSW Biodiversity Conservation Act 2016. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to any Occupation Certificate.

Reason: To achieve compliance with the NSW Biodiversity Conservation Act 2016.

54. **Groundwater Bore**

Any water sources on the property located within 250m of the groundwater bore shall be labeled and signposted as non potable.

Reason: To ensure compliance with legislation and to protect public health and amenity.

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

Signed



Gareth David, Planner

The application is determined on 25/09/2020, under the delegated authority of:



Steven Findlay, Manager Development Assessments