



northern
beaches
council

DEVELOPMENT ASSESSMENT REPORT

Application Number:	DA2021/1533
Responsible Officer:	Anne-Marie Young – Principal Planner
Land to be developed (Address):	Lot 170 in DP 752038, No. 13 Morgan Road, Belrose
Proposed Development:	Demolition works and construction of new dwelling, pool and garage.
Locality:	B2 Oxford Falls Valley under Warringah Local Environmental Plan 2000
Category:	Category 2 “Housing”
Referred to DDP:	Yes (24 November 2021)
Referral to IPHP:	No
Land and Environment Court Action:	No
Owner:	• D R Austin • J L Austin
Applicant:	Boston Blyth Fleming Pty Ltd
Application Lodged:	30 August 2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential
Notified:	6 September 2021 to 23 September 2021
Advertised:	No
Submissions Received:	One (1)
Recommendation:	Approval
Estimated Cost of Works:	\$4,430,250

EXECUTIVE SUMMARY

The proposal seeks consent for the demolition of the existing dwelling and pool and the construction of a new dwelling, pool and garage. The new dwelling is located within a similar location to the existing dwelling within the rear north-western corner of the site.

The site is located in an area identified as the “Deferred Lands / Deferred matter” under Clause 1.3 (1A) of the Warringah Local Environmental Plan 2011 (WLEP 2000) and therefore the WLEP 2000 is the prevailing LEP.

The property is located within the B2 Oxford Falls Valley Locality pursuant to the Warringah Local Environmental Plan 2000 and the use of that land for the purpose of ‘housing’ is classified as a ‘Category 2’ land use.

The proposal will result in a 30.6% (2.6m) breach of the 8.5m height limit and an 18.1% (1.3m) breach of the wall height. The proposal requires to be determined by the Development Determination Panel as the breach in the height exceeds 10%.

The area to where the height breach relates is to the central pavilion which is setback within the rear of site approximately 160m from Morgan Road. The existing structures, namely the large stables, sit forward of the dwelling effectively screening the proposed dwelling from the public street. Given the siting of the dwelling, the typography and the existing built form it is considered that the proposal will not result in any unreasonable visual impact to the Desired Future Character of the B2 Oxford Falls Valley Locality.

Further, the dwelling will not result in unreasonable amenity impacts on neighbouring properties in terms of view loss, overshadowing or privacy given the considerable distance due to the large lot sizes in the area.

A small section of the swimming pool, the associated pool deck and stairs breach the 10m rear setback. The minor encroachment of the rear setback with ancillary structures will have no unreasonable amenity or visual impacts.

The proposal complies with all other built form controls and no objections have been raised in the referrals.

One (1) submission was received which raises an issue regarding the on-site Wastewater Management Report. Council’s Water Management Officer has confirmed that the Report is sufficient and conditions are subsequently recommended to address any issues in respect to the management of waste water.

There is no change to the approved stables and associated structures and a condition will ensure that they will not be used for commercial purposes.

The application is recommended for approval.

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 from the public domain (due to the COVID-19 pandemic) 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;
- No submissions were received in response to the exhibition of 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.

LOCALITY PLAN (not to scale)



Figure 1 - Aerial photo of the subject site.

SITE DESCRIPTION

The subject property is legally described as Lot 170 in DP 752038, No. 13 Morgan Road, Belrose. The site has splayed frontage and address to Morgan Road of 103.38 metres, variable depth of between 185.83 metres and 201.43 metres, rear boundary dimension of 100.665 metres and an area of 1.994ha. The site rises approximately 8 metres in elevation from its front boundary before levelling off along its south-eastern boundary and rising again towards the northern corner of the property.

The property is currently occupied by a single storey residence and swimming pool located in the northern corner of the site (towards the rear of the site) with integrated garage accommodation accessed via a sealed driveway from Morgan Road. A roofed dressage arena, stables, eight (8) paddocks are located to the front of the site and informal landscaped gardens occupy the remainder of the site. It is noted that the site has been cleared of any significant vegetation.

The subject property is currently mapped as being bushfire prone as currently shown by the Northern Beaches Council LGA Bushfire Prone Land Map (s10.3 EP&A Act 1979).

The development is constrained by vegetation within the adjacent reserves to the North East, and rural residential properties to the South East – South West.

SITE HISTORY

DA2013/0892

On 19 November 2013, DA2013/0892 approved demolition works, the construction of a new dwelling house, secondary dwelling, riding stables and arena, tennis court and swimming pool.

Condition 3 of the consent restricted the stables to private use stating:

“No approval is granted under this Development Consent for any commercial use of the riding arena or stables (for example, riding school or animal boarding or training establishment).”

Subsequently a series of applications approved modifications to this consent as detailed below:

Mod2013/0263

Mod2013/0263 approved internal changes to dwelling, front fence, removal of coach's box, reconfiguration of stables, relocation of tennis court.

Mod2014/0098

Mod2014/0098 approved the relocation of the tennis court.

Mod2014/0147

Mod2014/0147 approved the relocation of the tennis court, revised stable, relocation of coach's box and minor changes to the riding arena.

Mod2015/050

Mod2015/050 approved the deletion of the modifications to design of dwelling house and secondary dwelling, changes to the pool, deletion of the tennis court to be replaced with a paddock, changes to the stables, extension of the driveway, and changes to the rainwater tanks.

*Note: The footprint of the stables, dressage arena and paddocks referenced in the subject application are generally consistent with most recent modification. There is no intensification of this use which remains to be a private non-commercial stable.

PLM2021/055

Pre-lodgement meeting PLM2021/055 was held with the applicant and Council Officers on 23 March 2021. The PLM confirmed that the proposal breaches the 8.5m Building height Development Standard by 2.6m and the wall height by 1.3m. Given the context of the site and no significant issues related to the breach, the applicant was advised to submit a request to vary the control via Clause 20 of the *Warringah Local Environmental Plan 2000* with any further Development Application.

*Note: The pre-lodgement plans are the same as those lodged with the subject application.

PROPOSED DEVELOPMENT

The proposal seeks development consent for the demolition of the existing dwelling and construction of a new dwelling designed as three interconnecting pavilions. A pool and landscape works are also proposed. The existing stables, roofed dressage arena, stables and 8 paddocks will be retained. In detail, the proposal includes:

Ground Floor Plan - Central Pavilion

- Formal entry leading to an open plan kitchen living and dining room;
- Laundry;
- Guest bedroom;
- Study; and
- Powder room.

Ground Floor Plan - Northern Pavilion

- Games room with wet bar which opens onto a veranda with pool;
- Storage; and
- Internally and externally accessed bathroom.

Ground Floor Plan - Southern Pavilion

- Secondary living space;
- Bedroom and ensuite;
- Mudroom;
- Storage;
- Three (3) car garage; and
- External access to a home office above.

Note: Internalised glazed links are provided to the proposed north and south pavilions.

First Floor Plan - Central Pavilion

- Three (3) bedrooms all with ensuite;
- Library; and
- Study.

First Floor Plan - Southern Pavilion

- Home office and associated amenities; and
- Utility room with wet bar and opens onto a roof garden terrace.

External (other) work

- Landscaping, including “wet zones”;
- Pool; and
- New entrance gate.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979);
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy No 55 - Remediation of Land;
- d) State Environmental Planning Policy (Infrastructure) 2007;
- e) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; and
- f) Warringah Local Environmental Plan 2000.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000 and the Northern Beaches Community Participation Plan between 6 September 2021 and 23 September 2021. Furthermore, a notice was placed upon the site.

As a result of the public exhibition process one (1) submission. The matter raised within the submission is as follows:

- **On-site Wastewater Management Report**

The submission claims that the ‘On-Site Wastewater Management Report which was submitted with the application was not in accordance with provisions of the *Local Government (General) Regulation (2005)*. The submission states:

“The application is supported with an “On-site Wastewater Management Report” that does not comply with Section 26 of the Local Government (General) Regulation (2005).

Section 26 of the Regulations require an application for approval to install or construct a sewage management facility to be accompanied by details of climate, geology, hydrogeology, topography, soil composition and vegetation of any related effluent application areas together with an assessment of the site in the light of those details.

Section 19 of the Environmental and Health Protection Matters’ – “re-use of nutrients”. The Regulation requires Council takes into consideration the matters specified including the re-use of resources (including nutrients, organic matter and water). Non-compliance with the above sections poses a significant environmental risk.

The application needs to be accompanied with an amended “On site Wastewater Management” report including hydrologic modelling and nutrient modelling”.

Comment

The application was referred to Council’s Environmental Health Unit, Water Management Unit and Riparian Lands and Creeks Unit who raised no objection to the development in terms of its impact of wastewater on the environment subject to conditions.

The submission has been reviewed by the relevant Council Officers who confirm that the information as submitted in the ‘On-Site Wastewater Management Report’ is sufficient. Please refer to the discussion below under the referral section of this report.

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 Sydney Bushfire Consultants, dated 9 July 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection.

The Report identifies the bush fire attack level (BAL) of the following components:

- Main Residence – BAL 19
- Garage/Guest Accommodation – BAL 12.5; and
- Games Room – BAL Flame Zone and BAL 12.5.

The application was referred to the NSW Rural Fire Service who have subsequently provided conditions.

The recommendations of the Bush Fire Report have been included as conditions of consent in addition to the conditions imposed by the NSW Rural Fire Service.

REFERRALS

External Referrals

External Referral Body	Comments
Rural Fire Services (NSW)	Supported subject to conditions
Ausgrid	No objection raised and no conditions imposed

Aboriginal Heritage Office (AHO)	Supported subject to condition <i>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.</i> <i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i>
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Internal Referrals

Internal Referral Body	Comments
Bushland and Biodiversity	Supported subject to conditions Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related controls: • Warringah DCP cl. E2 Prescribed Vegetation. • Warringah DCP cl. E6 Retaining Unique Environmental Features. The Development Application seeks approval for demolition of the existing dwelling house and the construction of a new dwelling house with integrated garage accommodation and swimming pool. The Subject Site contains little native vegetation as a result of historical clearing and development under previous approvals. An Arborist Letter has been provided with the application which confirms that there are no trees found on the site within 15 meters of any proposed works area. As such, no prescribed trees or native vegetation is proposed for removal as a result of the proposed development. An approved APZ (DA2013/0892) already exists over the entire site, and therefore does not require additional biodiversity consideration. Subject to conditions of consent, Council's Biodiversity referrals team are satisfied that the proposed development complies with the applicable controls listed above.
Landscape Officer	Supported subject to conditions The application is assessed by Landscape Referral against Warringah LEP 2000 including Clause 63 'Landscaped Open Space', and the B2 Oxford Falls Valley Locality Statement. Key landscape characteristics are to be achieved by the development proposal, including:

Internal Referral Body	Comments
	<i>“to be provided by the application including: enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality; and enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale; and enable the establishment of indigenous vegetation and habitat for native fauna. The B2 Oxford Falls Valley Locality statement includes the requirements for the following landscape objective: the natural landscape including landforms and vegetation will be protected and, where possible, enhanced”.</i> A Landscape Plan is provided and is generally acceptable subject to conditions to include indigenous vegetation and remove any potential self-seeding species into adjoining bushland areas. An Arboricultural Statement is provided to confirm that no trees were found on the site within 15 meters of any proposed works area, and as such no specific arboricultural issues are raised subject to general tree and vegetation protection measures.
Riparian Land and Creeks Unit	Supported subject to conditions The additional information is showing an improved stormwater runoff management of the outdoor horse area. The proposed vegetated swale will catch and convey the runoff to the pipe system and infiltration zone. The system is expected to reduce the sediment and nutrient loading entering the riparian corridor. The development application is acceptable subject to conditions.
Water Management Unit	Supported subject to conditions The proposal was assessed under the current creek and water management legislation framework, the relevant parts of the LEP, DCP and Council Water Management for Development Policy. The relevant Water Management Policy principles are: • Improve the quality of water discharged to our natural areas to protect the ecological and recreational condition of our, beaches, waterways, riparian areas and bushland. • Water sensitive urban design measures will be integrated into the built form to maximise liveability and reduce the impacts of climate change e.g. urban heat island effect and intensified rainfall events. • Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources.

Internal Referral Body	Comments
	The ecological sensitivity of the catchment is described in the Riparian Referral. The site is fully developed and the development application is proposing the demolition and construction of a new dwelling, swimming pool, sewer and stormwater runoff management. Under Council's <i>Water Management for Development Policy</i> the General Stormwater Quality Requirements are applicable. Council notes that the water quality management relies solely on the stormwater harvesting system. The system is satisfactory considering the site-specific arrangement. Stormwater run-off from stables, yards and other areas has the potential to carry a high load of nutrients, pathogens and sediment. As a result, stormwater treatment and management measures are needed to avoid any impacts on water quality. The nutrient and sediment loading from the paddocks needs to be capture and treated prior the runoff is discharged from the property. Run-off from horse yards, enclosures, outdoor arenas, and access areas should be captured and treated on site. For example, a treatment chain could include, swales, which then may drain into an off-line farm dam, sediment basin, water quality treatment pond, or grass buffers and infiltration beds. All stormwater management systems must be protected from impacts by horses and vehicles by using fencing. Treatment and management measures will vary depending on the volume, source and path of the runoff generated by rainfall events and should be incorporated into the design for the development. We recommend the following guideline: https://www.watarnsw.com.au/_data/assets/pdf_file/0005/56480/Horse-Property-Developments-in-the-Sydney-Drinking-Water-Catchment.pdf The additional information is showing an improved stormwater runoff management of the outdoor horse area. The proposed vegetated swale will catch and convey the runoff to the pipe system and infiltration zone. The system is expected to reduce the sediment and nutrient loading entering the riparian corridor. The development application is acceptable subject to conditions.
Environmental Health (unsewered lands)	Supported subject to conditions The applicant's consultant advises as follows which is quoted for the readers convenience:

Internal Referral Body	Comments
	An application to build a proposed dwelling at Lot 170 DP 752038 No. 13 Morgan Road, Belrose. At the time of assessment there was an existing five-bedroom dwelling onsite which was scheduled for demolition. At the time of inspection there was a horse stable and arena also located onsite. At the time of inspection wastewater generated in the existing dwelling was being secondary treated in an Ultraclear™ ST-10 Aerated Wastewater Treatment System (AWTS) (confirmed by a Highlands Tanks representative) and disposed via absorption beds. Wastewater generated in the existing stables appeared to be directed to an existing 7,800 L septic pump-out tank, although this could not be confirmed. Therefore, this assessment is required to show how treated wastewater generated from the existing dwelling, after additions and alterations, the office and toilet in the stables (domestic wastewater) and wastewater from the stable (agricultural wastewater) can continue to be sustainably managed separately onsite. The Wastewater report by Strategic Environmental and Engineering Consulting Project Reference: 18000327-P02-WW-02.docx Date of Assessment: 26/07/2021 describes site conditions existing systems and proposed prescriptive solutions to manage water. <u>Domestic Wastewater</u> It is proposed to secondary-treat all wastewater generated by the proposed dwelling, the office and toilet in the stable in the existing Ultraclear™ ST-10 AWTS. Secondary-treated effluent will then be pressure-dosed into an EMA made up of new raised absorption beds. The design loading rate for the raised absorption beds has been based on the weakly pedal Category 4 subsoil encountered in Test Pits 1 and 2. The required bed area is calculated as $1,749/20 = 87.5 \text{ m}^2$. This will be rounded up to 90 m² and provided as two 3.22 m x 14 m beds built end to end, along the contour and to the requirements of AS/NZS1547:2012 (in the area shown in Figure 1 and following the typical details in Figures 2 and 3). The absorptions beds must be raised slightly to ensure they are 200 mm proud of the existing ground surface (Figure 3). Care should be taken to ensure the base of the beds are absolutely level. A two-way zone sequencing valve must be installed to alternately dose each bed, if one is not already installed. <u>Agricultural Wastewater</u> The stable has seven stalls, a feed room, a tack room, two tie-up stalls and two wash bays. 'Agricultural' wastewater will be generated in the stables. The stable has sealed floors which will be covered with wood shavings or similar organic cover. Equine

Internal Referral Body	Comments
	manure will be removed from the floors and stored in a dedicated area for re-use on the surrounding farmland. Most equine urine will be absorbed by the floor covering and then composted as part of the solid waste train. The storage area for the manure and floor coverings must have a sealed floor to prevent any seepage of excrement in the surrounding soils and be covered at all times to prevent rain ingress. SEEC have been informed by the property owners that twice per year the floor coverings will be removed and the stalls will be washed down with a "Gerni" or similar (i.e. they will not be hosed). Assuming it takes one hour to clean the stalls this is approximately 600 L/wash. This water will be filtered by a solids trap before it drains to the existing 7,800 L septic tank (confirmed by a Highlands Tanks representative), but there will be a small amount of organic matter that flows through. We estimate that would be about 1 kg/stall or say 7 kg/wash or equivalent to 40 g/day. Each horse will be washed for about 2 minutes 5 days per week using a hose with a trigger nozzle and so each wash is expected to use about 20 L of water. Assuming a maximum of 8 horses are washed, the peak daily horse-wash volume is expected to be approximately $8 \times 20 \text{ L} = 160 \text{ L/day}$. Additionally, special conditions of use and limitations are documented. <u>Important</u> Sufficient for this referral only; Environmental Health is not approving the wastewater system; as that is subject to a separate Section 68 application to Council, site inspection and will be a condition of any development approval. However, to allow the application to proceed we are satisfied that a suitable wastewater system can be provided for the proposed development on this site. Recommendation approval - subject to conditions

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of 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	See discussion on "Draft Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	A Development Control Plan does not apply to the site.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	• The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been addressed via a condition of consent. • Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. • Clause 54 and 109 of the EPA Regulations 2000, Council have not requested any additional information.
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) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered to be 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 “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen that would justify the refusal of the application in the public interest.

The proposal has been considered against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979.

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 any conditions contained within the Recommendation.

ENVIRONMENTAL PLANNING INSTRUMENTS:

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No. 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.

State Environmental Planning Policy - BASIX

A BASIX certificate has been submitted with the application (refer to Certificate 1221537S-02 dated 9 August 2021).

A condition of consent has been imposed requiring compliance with the requirements of the applicable BASIX certificate.

State Environmental Planning Policy - Infrastructure

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out as a result the application was referred to Ausgrid who offered no objections to the application.

Warringah Local Environmental Plan 2011 (“Deferred Matter”)

The subject site falls within the area designated as a ‘deferred matter’ which is subject to future zoning considerations by the NSW Department of Planning. Previous advice from the Department applies and Council has not been informed of any zoning change that has become recently “imminent or certain”.

Therefore, for the purposes of this assessment, no further consideration of the provisions of WLEP 2011 is required.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Land Use

Appendix B – Narrabeen Lagoon Catchment Locality Statements	
Definition of proposed development: (ref. WLEP 2000 Dictionary)	Housing means development involving the creation of one or more dwellings whether or not used as a group home. Dwelling means a room or a suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.
Locality:	B2 Oxford Falls Valley
Category of Development:	Category 2

The proposed development is defined as “**housing**” and “**other buildings, works, places or land uses that are not prohibited or in Category 1 or 3**” under the WLEP 2000 dictionary.

The development is identified as **Category 2** development in this locality.

“**Animal boarding or training establishments**” are identified as Category 3 development, however, to fall under this definition the stables and riding arena would need to be used for commercial use. The applicant has confirmed that the continued use of the stables will be for the private use of the owners of the site, and as such do not fall under the definition of ‘*animal boarding or training establishments*’

The footprint of the stables, dressage arena and paddocks referenced in the subject application are generally consistent with most recent approval, namely MOD2015/0055. There is no intensification of this use which remains to be a private non-commercial stable. A condition is included to prohibit the future use of the stables as a commercial business in accordance with the WLEP 2000 land use controls.

Desired Future Character

The subject site is located in the B2 Oxford Falls Locality under WLEP 2000.

The Desired Future Character Statement for this locality is as follows:

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Clause 12(3)(b) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Desired Future Character statement under the relevant locality statement.

Accordingly, an assessment of consistency of the proposed development against the Locality's Desired Future Character is provided below:

Comment

The proposal involves a new detached replacement dwelling, as permitted by the housing density standard in the locality.

The construction of the dwelling will not change the present character of the Oxford Falls Valley locality.

The continued use of the approved private riding arena and stables will be "low intensity, low impact" is not defined in WLEP 2000.

The stables and associated arena and paddocks have been approved under a separate application and the proposal does not seek to intensify this private use. As such, a detailed assessment of the stables is not required under this discussion. Notwithstanding, a condition is included to ensure that the stables are not used for commercial purposes and Council's Health have also recommended conditions to ensure that there impacts on the environment.

Although the proposed dwelling is large the bulk and scale is minimised through a pavilion design which breaks up the built form. Furthermore, the dwelling is setback a minimum 133m from the street frontage within the rear (north-east) corner of the site and will generally be screened behind the existing stables and associated structures. As such, it is considered that the dwelling will not result in adverse visual impacts from Morgan Road or negatively impact the present or future character of the Locality which includes other large dwellings set back from the road frontage.

A vegetation buffer will be retained and enhanced between the proposed dwelling and Morgan Road. The landscaping will help reduce any perceived visual impact on the bulk and massing of the development.

The proposal does not result in an increased housing density on the site.

No significant vegetation is proposed for removal as part of this application and the proposal complies with Landscaped Open Space.

In summary, the proposed development is considered to be consistent the Desired Future Character for the B2 Oxford Falls Valley Locality.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built Form Controls of the above locality statement.

Built Form Controls			
Control	Required	Proposed	Compliance
Housing Density	1 dwelling/20ha	1 dwelling/4.6ha	Existing
Building Height Building Height Wall Height	8.5m 7.2m	11.1m 6.8m to 8.5m	No (30.6%) No (18.1%)
Front Building Setback	20m	133m	Complies
Rear & Side Building Setback	10m	Side East: 12m to 15m West: 59m to 67m Rear Dwelling: 10m Pool: 8.4m Pool Deck: 6.6m Stairs: 40m	Complies Complies Complies No No Complies
Landscaped Open Space	30% (13,874m ²)	32% (14,656m ²)	Complies
Car Parking	2 spaces	3 spaces	Complies

The proposed development is inconsistent with the Height and Rear Setback Built Form Controls, accordingly, further assessment is provided against the provisions of Clause 20(1) below.

Clause 20(1) stipulates:

“Notwithstanding clause 12(2)(b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is generally consistent with Clause 20(1) of the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with the Locality’s Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Description of variations sought and reasons provided:

Built Form Control

Building Height

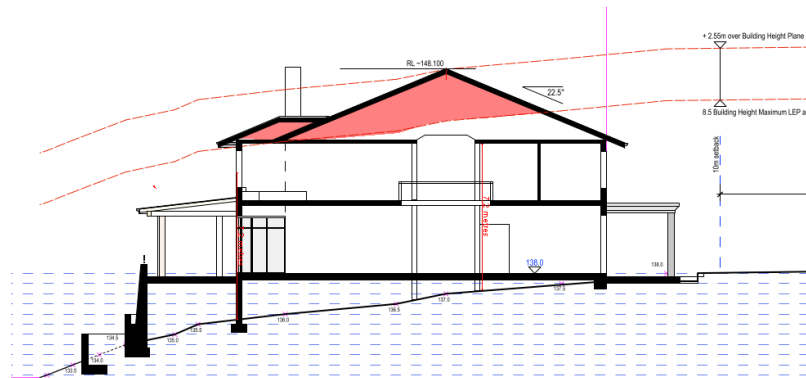
The B2 Oxford Falls Valley Locality Statement requires:

Buildings are not to exceed 8.5 metres in height, where height is the distance measured vertically between the topmost point of the building (not being a vent or chimney or the like) and the natural ground level below.

Buildings are not to exceed 7.2 metres from natural ground level to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas located wholly within a roof space), but this standard may be relaxed on sites with slopes greater than 20 per cent within the building platform (measured at the base of the walls of the building), provided the building does not exceed the 8.5 metre

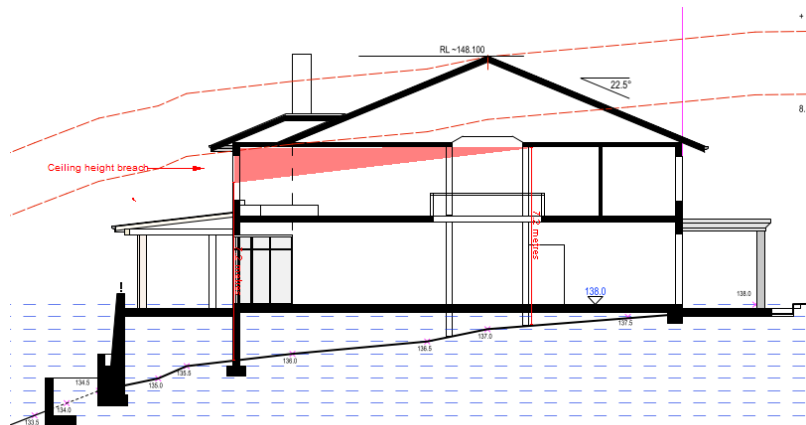
height standard, is designed and located to minimise the bulk of the building and has minimal visual impact when viewed from the downslope sides of the land.

The proposal has a maximum building height of 11.1m (RL 148.1) measured to the apex of the hipped roof, refer to image below. The proposal breaches the height limit by 2.5m which represents a 30% variation.



Building height breach

The wall height varies between 6.9m to 8.5m and is calculated as breaching the control by 1.3m which equates to a variation of 18%, see image below.



Ceiling height breach

Comment

The applicant has lodged a request to vary Clause 20 of the WLEP 2000 which presents the following arguments to justify the departure with the height control:

- *The non-compliant building height elements are located approximately 84 metres from the nearest residential dwelling being the property to the west at Lot 169 Morgan Road. Given such spatial separation the non-compliant building height elements will not give rise to unacceptably amenity impacts on surrounding development in relation to privacy and solar access as detailed on the accompanying shadow diagrams.*

- *The non-compliant building height elements will not give rise to unacceptable visual impacts or view loss as demonstrated on the view analysis diagram (See image below).*



View analysis taken from Lot 169 Morgan Road to the west.

- *A complying area of landscaped open space is provided on the site and accordingly a sense of openness is maintained despite the non-compliance.*
- *The non-compliant roof and wall elements are located approximately 160 metres from Morgan Road and due to the topography of the site will not be discernible in a streetscape context.*
- *The non-compliant roof and wall elements will not give rise to any adverse amenity or streetscape consequences and do not contravene any general principles of development control.*

The applicant's justification is supported. It is agreed that the height breach occurs at the pitched roof form which minimises in bulk and degree of non-compliance towards the apex and at the western side of the dwelling. The breach is also partially a result of the topography which has a 3.2m change in level below the footprint of the proposed dwelling.

It is also noted that the proposed height at the apex is equivalent to the ground floor of the neighbouring dwelling at Lot 169 Morgan Road (to the west) and which is separated from the proposed dwelling by approximately 107m. Similarly, the non-compliant elements are setback from the street by approximately 160m and are elevated and partly concealed by existing structures on the site which are to be retained. The overall effect is considered to minimise the visual impact of the pitched roof form (and non-compliance) and wall height from neighbouring properties and the street.

Rear Building Setback

The B2 Oxford Falls Valley Locality Statement requires development to maintain minimum rear building setbacks of 10.0m. The northern wall of the proposed dwelling is set back a compliant 10m from the rear boundary, however, the pool is setback 8.4m, the pool deck 6.6m and stairs 4m to the rear.

The applicant has lodged a request to vary Clause 20 of the WLEP 2000 which presents the following arguments to justify the departure with rear set back control:

- *The non-compliant swimming pool and access stair structures are located approximately 190 metres from the front boundary of the property and to that extent will not be discernible in a streetscape context.*
- *The non-compliant swimming pool and access stair structures are located approximately 107 metres from the nearest residential receiver being the property to the west Lot 169 Morgan Road. Given the height of these structures relative to existing ground level, and the spatial separation maintained to surrounding development, the non-compliant swimming pool and access stair structures will not give rise to any adverse residential amenity impacts.*
- *The balance of the rear setback area is available for landscaping as detailed on the accompanying landscape plan.*
- *The non-compliant rear boundary setback structures do not require the removal of any trees, significant vegetation or natural features.*
- *A complying area of landscaped open space is provided on the site and accordingly a sense of openness is maintained despite the non-compliance.*
- *The non-compliant rear boundary setback structures will not give rise to any adverse amenity or streetscape consequences and do not contravene any general principles of development control.*
- *The non-compliant swimming pool and access stair structures will not contravene any state planning policies.*

Comment

The applicant's justification to the rear setback control is supported. The minor encroachment of the rear setback with ancillary structures will have no unreasonable amenity or visual impacts.

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is consistent with the underlying objectives of the Building Height and rear setback Built Form Control.

It is for these reasons that the variation to the Building Height and Rear Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of WLEP 2000 are applicable to the proposed development:

Principle	Applies	Comments	Compliance
CL38 Glare & reflections	Yes	A standard condition of consent will ensure new roofs are of dark, non-reflective materials.	Yes
CL42 Construction Sites	Yes	Standard conditions apply	Yes

Principle	Applies	Comments	Compliance
CL43 Noise	Yes	The development is not likely to cause any unreasonable or unusual noise in the rural area.	Yes
CL44 Pollutants	Yes	The development is not likely to cause any unreasonable pollutants, conditions apply.	Yes
CL50 Safety & Security	Yes	The proposal will not detract from safety and security in the area.	Yes
CL51 Front Fences and Walls	Yes	The landscape plan references a curved front fence at the entrance to the site. The plans do not note the height of the front fence, although all other fencing is noted as 1.4m high. Subject to a condition to limit the height of the entrance fence to 1.4m the proposal is acceptable.	Yes
CL54 Provision and Location of Utility Services	Yes	The development will utilise the existing connections.	Yes
CL56 Retaining Unique Environmental Features on Site	Yes	There are a number of rock platforms across the site, some of which will be removed or built over in the region of the riding arena and stable. However, a significant number of rock platforms and outcrops will be retained by the development, which generally avoids the majority of the rocky areas on site.	Yes
CL57 Development on Sloping Land	Yes	The control states that development should minimise excavation and limit fill to 1m in depth. The proposed pool will sit on piers and the excavation is limited to that relating to the construction of foundation and underground stormwater tanks. The minor non-compliance is therefore considered acceptable	Yes
CL58 Protection of Existing Flora	Yes	The proposed works are generally in areas which do not contain existing significant vegetation and will not result in the removal of large numbers of trees. Council's Natural Environment Unit has assessed the proposal and has not raised any concerns.	Yes
CL60 Watercourses & Aquatic Habitats	Yes	Council's Natural Environment Unit have no objection subject to conditions.	Yes
CL61 Views	Yes	No objections were received from neighbours to the proposal, and the site inspection conducted did not reveal any likely unreasonable view loss as a result of the proposed works	Yes
CL62 Access to sunlight	Yes	The works will not create any unreasonable overshadowing of neighbours given the size of the site and the proposed setbacks	Yes

Principle	Applies	Comments	Compliance
CL63 Landscaped Open Space	Yes	32% of the site will remain landscaped	Yes
CL63A Rear Building Setback	Yes	The request to vary Clause 20 of the WLEP 2000 is supported, refer to discussion above.	No
CL64 Private open space	Yes	Ample private open space will be available on site.	Yes
CL65 Privacy	Yes	The proposal is not in close proximity to neighbours and will not overlook any neighbour's private open spaces or primary living areas, and will not create any unreasonable privacy impacts	Yes
CL66 Building bulk	Yes	It is acknowledged that the proposed replacement dwelling is large. However, the dwelling is set back over 130m from the street and the existing built structure on site that sit forward of the dwelling and screen it. As such, the bulk will not result in unreasonable impacts on visual amenity of the character of the area. Refer to discussion above.	Yes
CL67 Roofs	Yes	The hipped roofing will not have any unreasonable impacts or be out of character in the area, despite part of the roof breaching the height limit, refer to discussion above.	Yes
CL68 Conservation of Energy and Water	Yes	A BASIX Certificate was provided with the application. A condition of consent will ensure that the BASIX requirements are carried out.	Yes
CL70 Site facilities	Yes	There is ample room on site for site facilities.	Yes
CL71 Parking facilities (visual impact)	Yes	The development will utilise the existing driveway access.	Yes
CL72 Traffic access & safety	Yes	The proposed double garage meets the minimum requirements.	Yes
CL74 Provision of Car parking	Yes	Three spaces are proposed.	Yes
CL75 Design of Car parking Areas	Yes	The proposed double garage meets the minimum requirements.	Yes
CL76 Management of Stormwater	Yes	Council's Development Engineers have assessed the proposal and raised no	Yes

Principle	Applies	Comments	Compliance
		concerns. Conditions of consent have been provided	
CL78 Erosion & Sedimentation	Yes	Standard conditions of consent will ensure erosion and sedimentation is contained during construction.	Yes
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	Yes	The application was referred to the Aboriginal Heritage Office (AHO) and has confirmed that no Aboriginal heritage sites have been recorded. A condition is recommended to protect any items that may be discovered during earthworks.	Yes
CL83 Development of Known or Potential Archaeological Sites	Yes	The application was referred to the Aboriginal Heritage Office (AHO) who confirmed that there are no aboriginal heritage sites. A condition is recommended to protect any items that may be discovered during earthworks.	Yes

Other Relevant WLEP 2000 Clauses

Schedule 8 - Site analysis

Site Analysis	A site analysis has been provided
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POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019.

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

A monetary contribution of **\$44,302.50** is required for the provision of new and augmented public infrastructure. The contribution is calculated at 1% of the total development cost of \$4,430,250.

This has been included as a condition of consent.

CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979.

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 any conditions contained within the Recommendation.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, and the relevant codes and policies of Council.

- The new dwelling is located within a similar location to the existing dwelling within the rear north-western corner of the site, utilising the existing services.
- The proposal will result in a 30% (2.6m) breach of the 8.5m height limit and an 18% (1.3m) breach of the wall height which relate to the central pavilion of the dwelling which is setback 160m from Morgan Road.
- The breach in height partially relates to the topography of the land which slopes below the area of the central pavilion.
- The large stables, sitting forward of the dwelling effectively screening the proposed dwelling from the public street.
- Existing and proposed landscaping along the street frontage and western boundary will help soften the bulk of the dwelling.
- Given the siting of the dwelling, the topography of the site and the existing built form it is concluded that the proposal will not result in any unreasonable visual impact to the Desired Future Character of the Oxford Falls Valley area.
- The elements that breach the height limit will not give rise to unreasonable amenity impacts on neighbours by way of overshadowing, view loss or loss of privacy.
- The minor encroachment of ancillary structures within the 10m rear setback will not give rise to any unreasonable visual impacts or amenity impacts on neighbours.

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

RECOMMENDATION

APPROVAL

THAT Council as the consent authority grant Development Consent to DA2021/1533 for demolition works and construction of new dwelling, pool and garage on land at Lot 170 in DP 752038, No. 13 Morgan Road, Belrose 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
DA01 Rev A Site Plan	09/07/2021	Prestonpeterson
DA02.1 Rev A Ground Floor Plan and Garden	09/07/2021	Prestonpeterson
DA02.2 Rev A Ground Floor Plan	09/07/2021	Prestonpeterson
DA03 First Floor Plan	09/07/2021	Prestonpeterson
DA04 Rev A Roof Plan	09/07/2021	Prestonpeterson
DA05 Rev A Elevation Sheet 1	09/07/2021	Prestonpeterson
DA06 Rev A Elevation Sheet 2	09/07/2021	Prestonpeterson
DA07 Rev A Sections	09/07/2021	Prestonpeterson
DEM01 Rev A Demolition Plan	09/07/2021	Prestonpeterson
DRV01 Rev A Driveway Plan	09/07/2021	Prestonpeterson
EXF01 Rev A Excavation and Fill Plan	09/07/2021	Prestonpeterson

Engineering Plans		
Drawing No.	Dated	Prepared By
SEC01 Rev A Sediment and Erosion Control Plan	09/07/2021	Prestonpeterson

Reports / Documentation – All recommendations and requirements contained within:		
Report	Dated	Prepared By
Waterways Impact Statement Issue A	08/07/2021	NB Consulting Engineers
Wastewater Management Ref 18000327-P02-WW-02	26/07/2021	Strategic Environmental and Engineering Consulting
Waste Management Plan	No date	No signature
Geotechnical Report	07/05/2021	White Geotechnical Group
Arboricultural Report	18/05/2021	Koala Arbor
Bushfire Report Ref 79BA-2002	09/07/2021	Sydney Bushfire Consultants
Bushfire Risk Assessment Certificate	09/07/2021	Sydney Bushfire Consultants
BASIX Certificate No. 1221157S-02	09/08/2021	Certified Energy 1

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan Rev DD-2 (Drawings 1-3)	05/07/2021	Paul Bangay

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/Service	EDMS Reference	Dated
NSW Rural Fire Service	NSW Rural Fire Service Referral	21 September 2021

(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

- (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.

4. **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 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - 2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - 3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - 4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES/CHARGES/CONTRIBUTIONS

5) Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of **\$44,302.50** 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 2021. The monetary contribution is based on a development cost of **\$4,430,250.00**.

The monetary contribution is to be paid prior to the issue of the Construction Certificate. 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 2021 may be inspected at 725 Pittwater Road, 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.

6) Security Bond

A bond (determined from cost of works) of **\$10,000** 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 A CONSTRUCTION
CERTIFICATE**

7) **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to existing system in Morgan Road.

Details demonstrating compliance 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 the development.

8) **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

9) **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 Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

10) **Water Quality Management**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

11) **Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the NB Consulting Eng. 210575 rev B and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

12) **Amendments to the approved plans**

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

- a) The curved front fence at the entrance to the site referenced on the Landscape Plan shall be limited to 1.4m in height.

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.

13) **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

14) **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.

15) **Approval to Install an On-Site Sewage Management System**

This Development approval does not approve the proposed Waste Water Management System.

Prior to the release of the Construction Certificate, the applicant must receive an 'Approval to Install an On-Site Sewage Management System' from Council.

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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16) **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

17) **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 protect native wildlife.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18) **Tree and Vegetation Protection – General**

- a) Existing trees and vegetation shall be retained and protected, including:
 - (i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - (ii) all trees and vegetation located on adjoining properties,
 - (iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - (i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - (ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an 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 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 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 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 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 to the Certifying Authority.
- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Statement prepared by Koala Arbor Consulting Arborists, including:
 - (i) 1.8m chain link fence to be position five meters off the northern property boundary with a sign saying TPZ.

The Certifying Authority must ensure that:

- d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of

scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

19) **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.

20) **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

21) **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.

22) **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 Certifying Authority, 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.

23) Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

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

24) Landscape Completion

Landscaping is to be implemented in accordance with the approved Hardscape Landscape Plan, Soft Landscape Plan and Details, inclusive of the following conditions:

- (i) at least five (5) locally native trees are to be incorporated into the landscape scheme, as either additional planting, or in place of the nominated tree planting, to satisfy WLEP 2000 clause 63, and species shall be installed as a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- (ii) all trees shall be planted into a prepared minimum planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established,
- (iii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, at 4 plants per metre square for groundcovers of a minimum

140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,

- (iv) the nominated *Rhapiolepis indica* species shall be deleted and replaced with a non self-seeding shrub of similar size and form.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative
<https://5milliontrees.nsw.gov.au/>

25) **Protection of Aboriginal Cultural Heritage items**

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.

Reason: Protection of Aboriginal heritage.

26) **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.

27) **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

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

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

28) **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- a) Waterways Impact Statement Issue A dated 08/07/2021 prepared by NB Consulting Engineers;
- b) Wastewater Management Site & Soil Evaluation & Disposal System Design Ref 18000327-P02-WW-02 dated 26/07/2021 prepared by Strategic Environmental and Engineering Consulting;
- c) Waste Management Plan;
- d) Geotechnical Report dated 07/05/2021 prepared by White Geotechnical Group;
- e) Arboricultural Report dated 18/05/2021 prepared by Koala Arbor;
- f) Bushfire Report Ref 79BA-2002 dated 09/07/2021 prepared by Sydney Bushfire Consultants;
- g) Bushfire Risk Assessment Certificate dated 09/07/2021 prepared by Sydney Bushfire Consultants, and
- h) BASIX Certificate No. 1221157S_02 dated 09/08/2021 prepared by Certified Energy 1.

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

Reason: To ensure compliance with standards.

29) **House 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 Occupation Certificate.

Reason: Proper identification of buildings.

CONDITIONS WHICH MUST BE COMPLIED WITH AT ALL TIMES

30) **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

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 and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

31) **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

32) **No approval of commercial Stables**

No approval is granted under this Development Consent for any commercial use of the riding arena or stables (for example, riding school or animal boarding or training establishment).

Reason: To ensure that the development is consistent with the WLEP 2000 controls.