

Business Hours:  
8.00am to 6.00pm, Monday to Thursday  
8.00am to 5.00pm, Friday

**S96 No: N0520/07/S96/3**

10 February 2017

IAN WALTERS  
24 CABARITA ROAD  
AVALON BEACH NSW 2107

Dear Sir/Madam

**N0520/07/S96/3 Modification to consent N0520/07 for swimming pool, deck, boatshed and landscaping works at 24 CABARITA ROAD AVALON BEACH NSW 2107.**

Your request for modification has been considered by Council and it has been agreed to modify the Consent.

Please find attached the consent as modified.

If there are any matters that require further clarification, please do not hesitate to contact me.

Yours faithfully

**Christopher Nguyen**  
**PLANNER**

**MODIFICATION OF DEVELOPMENT CONSENT NO: N0520/07**

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

**NOTICE TO APPLICANT OF DETERMINATION**

**OF A DEVELOPMENT APPLICATION**

**Applicant's Name and Address:**

**IAN WALTERS  
24 CABARITA ROAD AVALON BEACH NSW 2107**

Being the applicant in respect of S96 Modification Application No N0520/07/S96/3

Pursuant to section 81 of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of this Development Application for: -

**N0520/07/S96/3 Modification to consent N0520/07 for swimming pool, deck, boatshed and landscaping works**

**At: Lot 9 DP 17704  
LIC 396153  
24 CABARITA ROAD  
AVALON BEACH NSW 2107**

**Decision:**

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with D01 (issue C, dated 31.08.07), D02 (Issue C, dated 30.08.07), D03 (Issue D, dated 30.08.07), D04 (Issue B, dated 30.08.07), D05 (Issue C, dated 30.08.07), D06 (Issue B, dated 30.08.07), D07 (Issue B, dated 30.08.07), D08 (Issue B, dated 30.08.07), D10 (Issue B, dated 30.08.07) and D11 (Issue C, dated 30.08.07), all prepared by Koopman Architects; and further amended by plans numbered M0-01, M0-02, M0-03, M0-04, M0-05, M0-06 and M0-07, dated 3-10-2008, prepared by Nvisage; and further modify Landscape Plan to LP03 B prepared by Selena Hannan Landscape Design dated 10.8.2010; and further modified by Drawing No. E-01, E-02 and E-03 revision E Dated 1 September 2011 Prepared by Nvisage Pty Ltd; Landscape Plan LP04A Dated 6 January 2012 Prepared by Selena Hannan Landscape Design as amended in red (shown clouded) or as modified by any conditions of this consent.

***As further amended by:***

- ***Architectural drawings MO-01, MO-02 and MO-03 prepared by Nvisage, dated 29/11/2016***

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of these conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act, pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent 13/02/2008 ***Modified 10 February 2017***

Mark Ferguson  
**INTERIM GENERAL MANAGER**

Per:

## CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

### A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the Environmental Planning & Assessment Regulation 2000. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site, or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. 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:
  - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - b. 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
  - c. 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.

5. 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:
  - a. in the case of work for which a principal contractor is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of that Act.
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

6. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) 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.
7. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

**B. Matters to be incorporated into the development and maintained over the life of the development:**

1. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Martens and Associates are to be incorporated into the construction plans.
2. The Estuarine Planning level is 2.3m AHD.
3.
  - (a) All structural elements below the Estuarine Planning level shall be of flood compatible materials.
  - (b) All structures must be designed and constructed to achieve a low risk of damage and instability due to estuarine hazard.
  - (c) All electrical equipment, wiring, fuel lines or any service pipes and connections must be waterproofed to the Estuarine Planning level.
  - (d) The storage of toxic or potentially polluting goods, materials or other products which may be hazardous or pollute floodwater is not permitted below the Flood Planning level.
4. DELETED.
5. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
6. The pool backwash water is to be disposed to the Sydney Water sewer.
7. Pool fencing is to be designed and located and maintained in accordance with the Swimming Pool Act 1992, AS 1926.1-1993 *Fencing for swimming pools*, AS 1926.1-1995 *Location of fencing for private swimming pools*.
8. A Resuscitation and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.
9. All pool overflow water and waste water from the filtration process is to be directed to the sewer when available or to an approved on site disposal system.
10. All external glazing is to have a maximum reflectivity index of 25%.

11. Materials and colour schemes are to be in accordance with the samples submitted to Council with the application. No white or light coloured roofs are permitted.
12. The existing landscaping required to be retained together with any additional landscaping required by this Development Consent is to be maintained for the life of the development.
13. All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.
14. In accordance with Pittwater Council's Tree Preservation and Management Order, all existing trees as indicated on Survey Plan Prepared by Base Surveying, Reference No 06-48, dated 3-9-2007, shall be retained except where Council's prior written consent has been obtained, or where after approval of the relevant Construction Certificate Application/s, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas.
15. At least two (2) locally native canopy trees are to be planted onsite (up slope of the retaining wall) to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and the Native Plants for Your Garden link on Council's website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists). All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
16. Where fencing is required to contain a domestic animal the enclosed area shall be up to 25% of the site cover and in a location that does not impede passage of native wildlife between sites.
17. Any vegetation planted outside approved landscape zones is to be consistent with:
  - d. Species listed in the Ecological Sustainability Plan
  - e. Species listed from the Endangered Ecological Community
  - f. Locally native species or locally native plants growing on site and / or selected from the list pertaining to vegetation community(s) on the site as per the Pittwater Book *Native Plants for Your Garden* - book available from Council and on the Pittwater Web Site.
18. Trees shown on Approved Plan D01 (amendment C, dated 31.08.07, prepared by Koopman Architects), are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
19. Over the life of the development all declared noxious weeds under are to be managed / removed in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and/or controlled.
20. No environmental weeds are to be planted on the site.
21. Fencing is to be passable by Native Wildlife.
22. Landscaping is to be implemented in accordance with the approved Landscape Plan (Selena Hannan Landscape Design Drawing No. Landscape Plan LP04A Dated 6 January 2012). The new landscaping is to be approved as completed by the accredited certifier

upon issue of the Occupation Certificate. This landscaping is to then be maintained for the life of the development.

23. The area between the retaining wall and eastern boundary except where the boatshed is located is to be soft landscaped area (lawn and/or vegetation). No additional hard surface areas are permitted.
24. The retaining wall is to be constructed of or faced with sandstone or stone like materials.
25. The height of the southern most retaining wall shall slope from the highest approved western point and taper to follow the pre development natural ground levels so that it's height at its eastern most point is at natural ground level. The area between the southern boundary and this retaining wall is to be filled to pre development natural ground levels (contours identified on the site survey).
26. The replacement Spotted Gums nominated on approved Landscape Plan (Selena Hannan Landscape Design Drawing No. LP04A Dated 6 January 2012) shall be advanced trees with a minimum pot size of 100L.

### **C. Matters to be satisfied prior to the issue of the Construction Certificate:**

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Prior to issue of the Construction Certificate, details are to be submitted to the Principal Certifying Authority that include, but are not limited to, all of the recommended conditions in the Geotechnical Report prepared by Martens and Associates .Form 2 of the Geotechnical Risk Management Policy for Pittwater is to be completed and submitted with the above details before issue of the Construction Certificate.
2. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
3. Erosion and Sediment Management Plan is to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises shall be undertaken through the installation of erosion control devices such as catch drains, diversion drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, sedimentation basins. Such plan is to be accompanied by a certification from an appropriately qualified person, that the plans/ details have been designed in accordance with the requirements of the N.S.W. Department of Land and Water Conservations *Urban Erosion and Sediment Control* manual.

The plan is to include specific details required to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

4. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.

5. The Accredited Certifier or Council must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
6. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-1991 *The Demolition of Structures*.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

1. Protection of site workers and the general public.
2. Erection of hoardings where appropriate.
3. Asbestos handling and disposal where applicable.
4. Any disused service connections shall be capped off.

Manufacturer's Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

7. Structural Engineering details relating to the proposed works are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
8. The inclinor stairs are not to extend below Mean High Water Mark. The plans are to be amended prior to the release of the Construction Certificate, detailing a revised lower stair arrangement which is sited within the property boundaries.
9. An amended Landscape Plan is to be prepared that addresses the recommendations of any approved management plans prepared for the site, including any Arborists report, Ecological Sustainability Plan, Bushland Management Plan, Asset Protection Plan for Bushfire, or Stormwater and Drainage Plan. Where Spotted Gums (*Corymbia maculata*) are recommended for removal, replacement plantings of the same species are to be made on the basis of 3:1 replacements of each tree that is removed. The intent is to re-establish the existing level of canopy cover on the site, so the plantings may be culled when they reach semi-maturity (this usually takes three to five years) to retain the number of trees that were removed for this development. The amended Landscape Plan is to be certified by an environmental horticulturalist with experience in the requirements of indigenous plants in urban landscapes. No site works are to take place until a copy of the certified plan is forwarded to the Principal Certifying Authority and approved.

**D. Matters to be satisfied prior to the commencement of works and maintained during the works:**

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. All excavated material is to be removed from the site. This is due to the sites location in an area identified as being subject to possible landslip.
2. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
3. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
5. 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.
6. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
7. No works are to be carried out in Councils Road Reserve without the written approval of the Council.
8. No skip bins or materials are to be stored on Councils Road Reserve.
9. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
  - The builders name, builders telephone contact number both during work hours and after hours.
  - That no works are to be carried out in Councils Road Reserve without the written approval of the Council.
  - That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Councils Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - That no skip bins or materials are to be stored on Councils Road Reserve.
  - That the contact number for Pittwater Council for permits is 9970 1111.
10. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
11. Demolition works must be carried out in compliance with WorkCovers *Short Guide to Working with Asbestos Cement* and Australian Standard AS 2601 1991 The Demolition of Structures.

The site must be provided with a sign containing the words *DANGER ASBESTOS REMOVAL IN PROGRESS* measuring not less than 400mm x 300mm 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.

12. Contractors and visitors to the site are to be advised of the purpose for the tree/ native vegetation/ habitat protection/exclusion fencing installed in accordance with this consent



by the placement of a suitable warning sign on the fence. The sign is to include advice that no works or storage of materials is to take place within the dripline of existing trees.

13. 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.
14. The project manager is to erect signs advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
15. Tree guards are to be provided around all trees as indicated on Survey Plan No. 06-48, dated 3-9-2007, prepared by Base Surveying; or where after approval of the relevant Construction Certificate Application/s, trees stand within the envelope of approved buildings or within the alignment of approved permanent paved vehicular access roads and parking areas. The tree guards are to be installed prior to the commencement of any work on the site. No works, including utility installations (e.g. water, sewer, telephone, drainage), are to be undertaken within 4 metres of the trunk of any such trees. The tree guards shall be a minimum 1200mm high at least four (4) metres from the base of the nominated tree/s and constructed from timber posts and rails or posts and suitable plywood panels.
16. When working within the drip line of the trees, hand digging is to occur in sensitive areas. Liaison on a daily basis is to be maintained during the excavation works between the Builder and Arborist. No filling or compaction shall occur over tree roots within the area defined by the outer drip line of the crown. Root protection/ compaction mitigation in the form of planks or metal decking supported clear of the ground fixed to scaffolding is to be installed as required.
17. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.  
Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.
18. The developer or contractor will take all measures to prevent damage to trees and root systems during site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks of trees to be retained are not permitted unless part of the development as approved, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained, is not permitted.

NOTE: Trees that are part of an Endangered Ecological Community or are habitat for threatened species and endangered populations must comply with the requirements of the Threatened Species Conservation Act, 1995. Failure to do so may result in a penalty up to a maximum of \$250,000.00 and jail sentences.

Failure to comply with the requirements of the Pittwater Council Tree Preservation and Management Order may result in a penalty up to a maximum of \$20,000.00.

19. Protection measures are to be installed in accordance with all approved plans including the Arborist Report and /or Ecological Sustainability Plan. Protection measures are to be maintained for the duration of the works.

#### **E. Matters to be satisfied prior to the issue of Occupation Certificate:**

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. A positive covenant/ restriction on the use of land is to be created prior to the issue of the Occupation Certificate where the recommendations of the approved Geotechnical Report prepared by Martens and Associates requires on-going maintenance / inspections to ensure that the development achieves the acceptable level of risk criteria over the life of the development, the terms of which are to require the landowner to comply with the recommendations contained in that report.
2. Prior to issue of the Occupation Certificate, Form 3 of the *Geotechnical Risk Management Policy* is to be completed and submitted to the Principal Certifying Authority.
3. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
4. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
5. A qualified acoustic engineer is to certify that the maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level, when measured from any adjoining premises.
6. A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the landscape working drawings and specifications.

#### **F. Matters to be satisfied prior to the issue of Subdivision Certificate:**

Nil.

#### **G. Advice:**

1. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary

offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.

2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Manager's responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 80A(1)(d) and (e) of the Act, any consent given shall be void if the development to which it refers is not commenced within two (2) years after the date of approval, provided that Council may, if good cause be shown, grant an extension of renewal of such consent beyond such period.

NOTE: Council may be prepared to consider an extension of this Consent period for a further 12 months, however, the request for extension would have to be received during the initial 2 year period.

5. To ascertain the date upon which the determination becomes effective, refer to Section 83 of the Environmental Planning and Assessment Act, 1979 (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. Electrical insect killing light devices should not be outside and not installed anywhere that they can attract and kill micro-bats and killing insects reduces bat food and insects.