

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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|---|---|
| Application Number: | DA2019/0906 |
| Responsible Officer: | Thomas Burns |
| Land to be developed (Address): | Lot 76 DP 226445, 40 Towradgi Street NARRAWEENA NSW 2099 |
| Proposed Development: | Alterations and additions to a dwelling house including a swimming pool |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Caroline Jenkins Darren Paul McDevitt |
| Applicant: | Pittwater Design & Draft |
| Application Lodged: | 22/08/2019 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 04/09/2019 to 18/09/2019 |
| Advertised: | Not Advertised |
| Submissions Received: | 1 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |
| Estimated Cost of Works: | \$ 312,108.50 |

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing dwelling, including the construction of a swimming pool.

The alterations to the existing dwelling comprise:

- Alterations to the existing guest room, including the addition of a study and bathroom on the ground floor;
- Alterations to the existing master bedroom on the first floor, including the construction of an ensuite;

- Alterations to the existing balcony on the first floor; and
- Alterations to the existing roof.

The proposed in-ground swimming pool would be constructed to a maximum depth of 1.8m and include a timber deck surrounding the perimeter of the pool.

This application also includes the following works:

- Various landscaping works and vegetation planting;
- The construction of a block retaining wall on the northern elevation of the proposed pool, the northern side boundary and the eastern rear boundary; and
- The construction of a carport in the front setback area.

The proposed pool would result in the removal of two (2) small trees, one (1) being located along the northern side boundary and one (1) located along the eastern rear boundary. It is noted that the two (2) trees subject to removal are less than 5m in height, therefore do not require 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 and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C4 Stormwater
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot 76 DP 226445 , 40 Towradgi Street NARRAWEENA NSW 2099 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the eastern side of Towradgi Street, Narraweena. The southern side boundary of the site fronts an unformed portion of Birinta Street, which is currently presented in the form of a concrete pathway.</p> <p>The site is irregular in shape with a frontage of 12.525m along Towradgi Street and a maximum depth of 38.59m along the northern side boundary. The site has a surveyed area of 562.9m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a detached two (2) storey dwelling house and a timber deck located on a sandstone outcrop within the south-eastern rear corner of the site.</p> <p>The site contains landscaped open space within the front and rear yards and a number of small to medium sized trees throughout the site.</p> <p>The site experiences a fall of approximately 5m that slopes towards the northern side boundary.</p> <p>The site is mapped as being located within 'Land Slip Risk Area B' under the provisions of the <i>Warringah Local Environmental Plan 2011</i> (WLEP 2011).</p> <p>Detailed Description of Adjoining and Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached one (1) and two (2) storey dwelling houses.</p> |

Map:



SITE HISTORY

The site has been used for residential purposes for an extended period of time. A search of Council's records has revealed no recent applications relevant to this Development Application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the swimming pool plans.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements</p> |

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| | <p>under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

| Name: | Address: |
|----------------------|--------------------------------------|
| Owen Vernon Mitchell | 1 Birinta Street NARRAWEENA NSW 2099 |

One (1) submission was received during the Notification Period from the occupant of the eastern rear adjoining property 1 Barinta Street, Narraweena.

The occupant was generally supportive of the proposed development, however noted that the rear boundary timber pailing fence that separates the two (2) properties encroaches into the adjoining property at 1 Barinta Street. The occupant of 1 Barinta Street requested that the fence was rectified to ensure that it is located along the eastern rear boundary.

In response to this request, it is noted that no works are proposed to the rear fence. Furthermore, it is also noted that boundary fencing disputes are civil matters that fall under the provisions of the *Dividing Fences Act 1991 No 72*.

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|--|
| NECC (Bushland and Biodiversity) | <p>This application was assessed against Warringah DCP E2 Prescribed vegetation, E4 Wildlife corridors and E6 Retaining unique environmental features.</p> <p>The proposal is for the alterations and additions to the existing dwelling, including a carport and swimming pool. No native trees or vegetation is proposed to be removed or impacted.</p> <p>Council's Natural Environment - Biodiversity section raises no objections, subject to conditions.</p> |
| NECC (Development Engineering) | No objections are raised to the proposed development, subject to conditions. |

| External Referral Body | Comments |
|------------------------|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

(SREPs)

SEPP 19 - Bushland in Urban Areas

SEPP 19 is not applicable as the site is not zoned or reserved for public open space.

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted with the application (see Certificate No. A354081 dated 21 August 2019). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

| | |
|--|-----|
| Is the development permissible? | Yes |
| After consideration of the merits of the proposal, is the development consistent with: | |
| aims of the LEP? | Yes |
| zone objectives of the LEP? | Yes |

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m | 5.59m | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---------------------------------|------------------------------|
| 2.7 Demolition requires consent | Yes |
| 4.3 Height of buildings | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Warringah Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---|-----------------------------|--|-----------------|---|
| B1 Wall height | 7.2m | 5.12m | - | Yes |
| B3 Side Boundary Envelope | 4m | Within Envelope (North) | - | Yes |
| | 4m | Within Envelope (South) | - | Yes |
| B5 Side Boundary Setbacks | 0.9m | 0m (carport/walkway structure) (North) | 100% | No |
| | 0.9m | 0.2m (block retaining wall) (North) | 77.78% | Yes - less than 1m in height, therefore an exemption applies |
| | 0.9m | 3.8m (South) | - | Yes |
| B7 Front Boundary Setbacks | 6.5m | 0.03m - 1.96m (carport) (West) | 69.85% - 99.54% | No |
| B9 Rear Boundary Setbacks | 6m | 1.45m (pool decking) (East) | 75.83% | Yes - Pool does not exceed 50% of rear setback area (refer to B9 Rear Boundary Setback detailed discussion) |
| B9 Rear Boundary Setbacks | 6m | 0.1m (block retaining wall) (East) | 98.33% | No |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% (225.16m ²) | 40.61% (228.6m ²) | - | Yes |

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| B1 Wall Heights | Yes | Yes |
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | No | Yes |
| B7 Front Boundary Setbacks | No | Yes |
| B9 Rear Boundary Setbacks | No | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | No | Yes |
| C4 Stormwater | Yes | Yes |
| C5 Erosion and Sedimentation | Yes | Yes |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |
| D1 Landscaped Open Space and Bushland Setting | Yes | Yes |
| D2 Private Open Space | Yes | Yes |
| D3 Noise | Yes | Yes |
| D6 Access to Sunlight | Yes | Yes |
| D7 Views | Yes | Yes |
| D8 Privacy | No | Yes |
| D9 Building Bulk | Yes | Yes |
| D10 Building Colours and Materials | Yes | Yes |
| D11 Roofs | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D16 Swimming Pools and Spa Pools | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D22 Conservation of Energy and Water | Yes | Yes |
| E1 Preservation of Trees or Bushland Vegetation | Yes | Yes |
| E2 Prescribed Vegetation | Yes | Yes |
| E4 Wildlife Corridors | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

Clause B5 of the Warringah Development Control Plan 2011 (WDCP 2011) stipulates that all development (excluding driveways and fences) is to maintain at least a 0.9m setback from all side boundaries. The covered walkway component of the proposed carport would maintain a 0m setback from the northern side boundary, which fails to comply with this Control.

Merit Assessment

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

The proposal is compliant by virtue of the landscape open space numerical control. As such, it is considered that there are sufficient opportunities for deep soil landscaping throughout the site.

- *To ensure that development does not become visually dominant.*

Comment:

The proposed carport is an open structure with no enclosed walls and would be constructed to a height of 2.85m above the existing ground level. Furthermore, the proposed carport would provide a roof form that is consistent to that of the dwellings's proposed roof. It is considered that the proposed carport is suitable in the context of the existing dwelling and the proposed alterations and additions entailed within this application. As such, the proposed carport will not become visually dominant within the streetscape.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

As noted above, the proposed carport would be constructed to a height of 2.85m above the existing ground level, would contain no enclosed walls and would provide a roof form that is consistent to that of the dwelling's proposed roof. It is considered that the proposed carport provides development that is of a minor bulk and scale, of which is suitable in the context of the existing dwelling, the proposed alterations and additions entailed within this application and the surrounding locality.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The northern adjoining property (42 Towradgi Street) is a battle-ax subdivision, where the dwelling house is sited at the rear of the property. As such, the proposed carport will have negligible privacy and amenity impacts on 42 Towradgi Street. The next adjoining property to the north (44 Towradgi Street) is

located 4.5m from the subject site and is visually separated by an access driveway for 42 Towradgi Street. Furthermore, the proposed carport is not a habitable structure, therefore no privacy implications will arise to 44 Towradgi Street subsequent to the development. The proposed carport is sited well below the existing and proposed building height, thus ensuring that the provisions for solar access are maintained within the subject site and adjoining properties.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The proposed carport will not give rise to any view loss impacts.

B7 Front Boundary Setbacks

Description of non-compliance

Clause B7 of the WDCP 2011 stipulates that all development (excluding driveways, letter boxes, garbage storage areas and fences) is to maintain at least a 6.5m setback from the front boundary. The proposed carport would provide a variable setback ranging between 0.03m and 1.96m from the eastern front boundary, which fails to comply with this Control. It is noted that this setback is variable as a result of the kinked front boundary. It is also noted that Towradgi Street contains a number of garages and parking facilities within the 6.5m front setback area.

Merit Assessment

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

- *To create a sense of openness.*

Comment:

The proposed carport is an open structure with no enclosed walls and contains a design that is complimentary to the existing and proposed dwelling house. As a result, the proposed carport will not appear visually dominant when viewed from the street.

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

Comment:

As noted above, there are a number of garages and carports within Towradgi Street that are located within the 6.5m front setback area. As such, it is considered that the proposed carport is sited in a manner that will maintain the visual continuity and pattern of development within the locality.

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

Comment:

The proposed carport will not adversely impact the visual quality of the streetscape. The street verge

contains landscaped elements that will soften the visual impact of the built form.

- *To achieve reasonable view sharing.*

Comment:

The proposed carport will not give rise to any view loss impacts.

B9 Rear Boundary Setbacks

Clause B9 of the WDCP stipulates that all development is to maintain a minimum setback of 6m from the rear boundary. The proposed development would maintain the following setbacks from the eastern rear boundary:

- The pool decking would be setback 1.45m from the eastern rear boundary; and
- The proposed retaining wall would be setback 0.1m from the eastern rear boundary.

Clause B9 further states that swimming pools within the R2 Low Density Residential zone may encroach into the 6m setback area, provided that the Objectives of the Control are satisfied. Accordingly, a detailed assessment is provided below.

Merit Assessment

With regard to the consideration for a variation, the proposed swimming pool and retaining wall is considered against the underlying Objectives of the Control as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal is compliant by virtue of the landscape open space numerical control. As such, it is considered that there are sufficient opportunities for deep soil landscaping throughout the site.

- *To create a sense of openness in rear yards.*

Comment:

The proposed swimming pool area will provide residents with a functional private open space area, which will encourage passive recreational activity within the site. As such, it is considered that the proposed swimming pool will create a sense of openness within the rear yard. The proposed retaining wall will be constructed to a height of approximately 0.91m above the existing ground level along the eastern side boundary and will not appear visually dominant within the rear yard.

- *To preserve the amenity of adjacent land, particularly in relation to privacy between buildings.*

Comment:

The proposed swimming pool decking would be constructed to a maximum height of 1.66m above the

existing ground level on the northern elevation and be setback 6.11m from the northern side boundary. Noting that the site slopes towards the northern side boundary, the raised swimming pool decking could result in potential overlooking into the northern adjacent property 42 Towradgi Street. Accordingly, a suitable condition has been recommended with this consent requiring a 1.8m high privacy screen to be installed along the northern elevation of the proposed swimming pool area (refer to detailed discussion under D8 Privacy within this report). Subject to compliance with this condition, the proposed swimming pool would preserve the amenity of the adjacent land. The proposed retaining wall will not impose privacy implications to adjacent properties.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The proposed development provides sufficient landscaped elements within the rear yard. Furthermore, adjoining and surrounding dwellings are characterised by similar structures within the rear setback area. As such, it is considered that the proposal maintains the existing visual continuity of development within the locality.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

Subject to compliance with the recommended condition noted above, the proposed swimming pool will ensure that privacy is maintained between dwellings. The proposed retaining wall will not not impose privacy implications to adjacent properties.

C3 Parking Facilities

Description of non-compliance

Clause C3 of the WDCP 2011 stipulates that all carports facing the street should provide an opening that does not exceed 6m or 50% of the building width, whichever is lesser. The dwelling house would maintain a maximum width of 9.3m, therefore the maximum allowable opening for the proposed carport is 4.65m. The proposed carport would provide an opening of 5.13m (carport component only, excluding undercover walkway), which fails to comply with this Control.

Merit Assessment

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

- *To provide adequate off street carparking.*

Comment:

In conjunction with the existing garage, the proposed carport would provide three (3) parking spaces on the subject site. This satisfies the car parking requirements for dwelling houses, which requires two (2) spaces per dwelling.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

As previously discussed within this report, the proposed carport is an open structure with no enclosed walls and would be constructed to a height of 2.85m above the existing ground level. Furthermore, the proposed carport would provide a roof form that is consistent to that of the dwelling's proposed roof. It is considered that the proposed carport is suitable in the context of the existing dwelling, the proposed alterations and additions entailed within this application and the surrounding locality. As such, the proposed carport will have minimal visual impacts on the street frontage.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The proposed carport will incorporate an undercover walkway along the northern side boundary. It is considered that the proposed carport is designed to ensure that the parking facility does not dominate the street frontage.

C4 Stormwater

Council's Development Engineer Officer has assessed the application against the requirements of this Control and recommended approval, subject to conditions. Subject to compliance with the recommended conditions of consent, the proposal will comply with the requirements of this Control.

D8 Privacy

Description of non-compliance

Clause D8 of the WDCP 2011 stipulates that building layout should be designed to optimise privacy for occupants of the development and occupants of the adjoining properties. The proposed swimming pool decking would be constructed to a maximum height of 1.66m above the existing ground level on the northern elevation and be setback 6.11m from the northern side boundary. Noting that the site slopes towards the northern side boundary, the raised swimming pool decking could result in potential overlooking into the northern adjacent property 42 Towradgi Street, which fails to comply with this Control.

Merit Assessment

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The raised swimming pool decking would give rise to unreasonable privacy impacts, as it would result

in potential overlooking into the northern adjacent property 42 Towradgi Street. To alleviate the opportunity for overlooking, a condition has been recommended with this consent requiring a 1.8m high privacy screen to be installed along the northern elevation of the proposed swimming pool decking area. Subject to compliance with this recommended condition, the proposal would provide a building design that encourages a high level of visual and acoustic privacy for the occupants of the subject site and 42 Towradgi Street.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

Subject to compliance with the recommended condition noted above, the proposal would provide a design that is suitable in the context of the site and surrounding locality.

- *To provide personal and property security for occupants and visitors.*

Comment:

Subject to compliance with the recommended condition noted above, the proposal would maintain personal and property security for occupants and visitors of the site.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$3,121 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$312,109.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0906 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 76 DP 226445, 40 Towradgi Street, NARRAWEENA, 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 |
| DA-01 Issue 3 - SITE PLAN | 16 July 2019 | Pittwater Design and Draft |
| A-02 Issue 3 - LOWER FLOOR + SWIMMING POOL PLAN | 28 August 2019 | Pittwater Design and Draft |
| DA-02 Issue 3 - UPPER FLOOR PLAN - OPTION 2 | 16 July 2019 | Pittwater Design and Draft |
| DA-04 Issue 3 - ROOF PLAN | 16 July 2019 | Pittwater Design and Draft |
| DA-05 Issue 3 - EAST + WEST ELEVATIONS | 16 July 2019 | Pittwater Design and Draft |
| DA-06 Issue 3 - NORTH ELEVATION | 16 July 2019 | Pittwater Design and Draft |
| DA-07 Issue 3 - SOUTH ELEVATION | 16 July 2019 | Pittwater Design and |

| | | |
|---|--------------|----------------------------|
| | | Draft |
| DA-08 Issue 3 - SECTION | 16 July 2019 | Pittwater Design and Draft |
| DA-10 Issue 3 - SEDIMENT + EROSION PLAN | 16 July 2019 | Pittwater Design and Draft |
| DA-11 Issue 3 - STORMWATER CONCEPT PLAN | 16 July 2019 | Pittwater Design and Draft |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|----------------|--------------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Geotechnical Assessment | 30 July 2019 | Ascent Geotechnical Consulting |
| BASIX Certificate No. A354081 | 21 August 2019 | Leigh Sym |

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

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

| Waste Management Plan | | |
|------------------------------|--------------|----------------------------|
| Drawing No/Title. | Dated | Prepared By |
| Waste Management Plan | 24 July 2019 | Pittwater Design and Draft |

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. 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

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable

cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,121.09 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$312,108.50.

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

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

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

at www.northernbeaches.nsw.gov.au

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

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

5. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Stormwater Disposal**

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

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

7. **Amendments to the approved plans**

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

- The swimming pool deck on the northern elevation is to incorporate a solid timber privacy screen with no greater than 25% openings, measured at a height of at least 1.8m above the finished floor level. The privacy screen is to be designed in accordance with all relevant legislative requirements noted within Condition 3 (k) (1) of this consent.

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.

8. **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.

9. **Compliance with Standards**

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

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

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

10. **Sydney Water "Tap In"**

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

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

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

11. **Boundary Survey**

A Boundary Survey prepared by a Registered Surveyor shall be provided as evidence that all buildings are within the appropriate property, easement boundaries and rights of carriageway. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure the accurate location of buildings in relation to boundaries, easements and rights of way.

12. **Certification of Geotechnical Requirements**

A suitably qualified geotechnical consultant is to provide written certification that the recommendations of the approved Geotechnical Assessment referenced in Condition 1 of this consent have been incorporated into the Construction Certificate plans. Documented evidence is to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **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.

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

14. **Stormwater Disposal**

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

15. **Certification of Geotechnical Requirements**

A suitably qualified geotechnical consultant is to provide written certification that the recommendations of the approved Geotechnical Assessment referenced in Condition 1 of this consent have been incorporated into the as-built development. Documented evidence is to be provided to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

16. **No Planting Environmental Weeds**

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

Reason: Weed management.

17. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

18. **Dead or Injured Wildlife**

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

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

19. **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

Reason: Wildlife protection

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

Signed



Thomas Burns, Planner

The application is determined on 03/10/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments