

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2564
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 526 DP 218576, 20 Leinster Avenue KILLARNEY HEIGHTS NSW 2087
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
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Kimberley Richard Harold Manns Clare Christina Margaret Manns
Applicant:	Kimberley Richard Harold Manns

Application Lodged:	07/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/01/2022 to 03/02/2022
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,369,169.00
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EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to the existing dwelling.

As the proposal attracted four (4) submissions in objection to the development with a cost of works greater than \$1million, the application is referred to the Development Determination Panel.

The four submissions received in response to the notification of the application generally relate to:

- Swimming pool setbacks, privacy and visual impact

- Stormwater drainage
- Geotechnical and bushfire impacts
- Garage side setback

As detailed in the report, none of the concerns raised in submissions warrant the refusal of the application subject to the recommended conditions of consent.

The proposal maintains an appropriate visual relationship with surrounding development and will not result in unreasonable amenity impacts to surrounding properties, notwithstanding the proposed DCP built form non-compliances.

The proposal does not seek any variations to the development standards.

No further assessment issues are raised and the proposal is recommended for approval based on the detailed assessment within this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing dwelling as follows:

Ground floor

- Reconfigured entry and stair
- Kitchen, dining & living
- Bed 1 with ensuite
- Study
- New roof, BBQ/store, balustrades and planter to refurbished terrace
- New single garage over hardstand
- New driveway

Lower ground floor

- Rumpus
- Beds 2 & 3
- Bath
- Laundry
- New rear terrace/drying court
- New stair access to ground floor

External

- Changes to windows and skylights
- New swimming pool and deck
- Landscaping works including new and re-located planting, paving and seating to front and rear yards
- Refurbished rear access stair
- New boundary fencing

Amendments to proposal

After lodgement of the application, the following amendments were made to the proposal:

- Relocated garage to increase side setback
- Increased swimming pool rear setback
- Amended stormwater design

The amendments made to the proposal are considered to result in lesser/reduced environmental impact to surrounding properties and were not re-notified, in accordance with the Northern Beaches Community Participation Plan.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 526 DP 218576 , 20 Leinster Avenue KILLARNEY HEIGHTS NSW 2087
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Leinster Avenue.</p> <p>The site is irregular in shape with a frontage of 24.08m along Leinster Avenue and a depth of 38.15m. The site has a</p>

surveyed area of 705.5m².

The site is located within the R2 Low Density Residential zone and accommodates an existing dwelling house

The site slopes 8.9m from front (south) to rear (north).

The site contains seven significant trees and a variety of smaller planted vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwellings.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
planning instrument	
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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)(iiia) – 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to</p>

Section 4.15 Matters for Consideration	Comments
	this application.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning and Design, dated June 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/01/2022 to 03/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Raffaele Agostino	5 Meath Place KILLARNEY HEIGHTS NSW 2087

Name:	Address:
Mrs Kay Patricia Fell	22 Leinster Avenue KILLARNEY HEIGHTS NSW 2087
Steven Mark Ward	21 Ballyshannon Road KILLARNEY HEIGHTS NSW 2087
Mr Jeremy David Zeitlyn Georgina Frances Zeitlyn Planning Progress	6 Meath Place KILLARNEY HEIGHTS NSW 2087

The issues raised in the submissions are addressed as follows:

- **Swimming pool setbacks, privacy and visual impact**

The submissions raised concerns that the proposed swimming pool is non-compliant and will give rise to adverse visual and privacy impacts. The submission also raised concerns that the siting and scale of the proposed swimming pool are inconsistent with the zoning of the site

Comment:

The proposed swimming pool located within the rear setback but does not exceed 50% of the rear setback area, taking up approximately 21.7% of the total rear setback area. As such, the proposal is compliant with the rear setback control. The amended proposal is considered to provide adequate setbacks to the swimming pool to minimise visual impact. The proposed boundary fencing and landscape planting will provide supplementary screening.

With regard to the potential privacy impacts, the trafficable pool terrace is set back a minimum of 7m from the rear boundary and 1.5m from the western side boundary. Survey information available to Council places the rear elevations of Nos. 5 and 6 Meath Place approximately 3.5m and 10m from the rear boundary of the subject site, respectively. Adequate physical separation is provided to the rear boundary and privacy screening is conditioned to be provided at the western edge of the pool terrace. The use of the pool itself is not considered to give rise to adverse privacy impacts as the eye level of a person in the pool would not be substantially higher than the proposed boundary fence or a person standing at the existing ground level.

The proposed swimming pool equipment is located centrally within the site and a condition is imposed in relation to noise generation from plant equipment.

- **Stormwater drainage**

The submissions raised concerns that the proposed stormwater design will adversely impact the adjoining properties. It was also requested that a hydrological assessment of the site be provided.

Comment:

The proposal results in an overall reduction in the impervious areas of the site, and includes a new stormwater management incorporating on site detention. The proposal was referred to Council's Development Engineers who confirmed that the design complies with the Water Management for Development Policy. Given the nature and extent of the proposed new works, a hydrological assessment is not considered necessary, noting that the proposed works are largely within the existing building footprint and reduce the impervious site areas.

- **Survey detail**

The submissions raised concerns that the survey plan submitted does not provide adequate detail of adjoining properties.

Comment:

The topography of the site and adjoining properties, including the location existing retaining wall at the northern boundary, is apparent from the details included on the survey plan. A physical inspection of the site was also completed as part of the assessment in order to understand the context of the locality.

- **Geotechnical / landslip impacts**

The submissions raised concerns that the proposal may result in landslip risk.

Comment:

The site is mapped as Landslip Risk Area B, requiring the preparation of a preliminary geotechnical assessment. The submitted preliminary landslip risk assessment advises that there is no evidence of slope instability on the site and that a detailed geotechnical assessment is not required.

- **Bushfire impacts**

The submissions raised concerns that the proposal may result in increased bushfire risk.

Comment:

The recommendations of the Bushfire Risk Assessment are incorporated into the conditions of consent, including a requirement that any new fencing be constructed in accordance with the relevant standards.

- **Garage side setback**

The submissions raised concerns in relation to the proposed non-compliant garage side setback.

Comment:

The amended proposed provides an eastern side setback of 0m at the northern end of the garage to 1.3m at the southern end. Given the single-storey height of the garage, the lack of a suitable alternate location and the minimal amenity impact to the adjoining property, the side setback non-compliance is supportable.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for alterations and additions to the existing dwelling, and associated works, as described and illustrated in the reports and plans. A Landscape Plan accompanies the application and is assessed as part of this Landscape Referral.</p> <p>The application is assessed by Landscape Referral against Warringah</p>

Internal Referral Body	Comments
	<p>Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • D16 Swimming Pools and Spa Pools • E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation • E6 Retaining unique environmental features <p>The site contains established landscaped areas, numerous natural sandstone features, and a mix of native and exotic trees and other understorey planting. Established mature vegetation and hedge and screen planting is maintained. Additional landscape works are proposed within and adjacent to existing and proposed front and rear private open space areas.</p> <p>External landscape works proposed include: retention of existing natural sandstone outcrops, retaining walls, vegetation and established landscaping; new plantings, screen planting, groundcovers, lawn, relocation of a Frangipani tree, seating wall, and repair existing sandstone access stairs in the rear yard; swimming pool and paved surrounds; new concrete deck and drying court; new tile entry paving along western side accessway; new stepping stone steppers, sandstone boulder steps and sandstone seating within front yard; and new driveway comprising varied size concrete slabs with gravel and groundcovers in between.</p> <p>No existing prescribed trees (protected by the DCP) are proposed for removal as demonstrated on the plans, and all trees as shown on the Site Analysis plan number 026-DA-101 shall be retained and protected, and any additional tree not shown shall likewise be retained and protected.</p> <p>The submitted Landscape Plans provide augmentation of the existing landscape setting and no concerns are raised subject to imposed conditions, including providing additional screening planting along the side and rear boundaries to the extent of the swimming pool.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to an existing dwelling, including the construction of a new swimming pool and associated landscaping. In addition, the application also seeks to establish an Asset Protection Zone (APZ) over the entirety of the site in perpetuity.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management) 2018</p> <ul style="list-style-type: none"> • Coastal Environment Area

Internal Referral Body	Comments
	<p>Warringah Development Control Plan (WDGP)</p> <ul style="list-style-type: none"> • Clause E2 Prescribed Vegetation • Clause E6 Retaining unique environmental features <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. No objection is raised to the proposed translocation or removal of a single <i>Plumeria spp.</i> Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Coastal Management) 2018 (clauses 13, 14 & 15); and • Relevant LEP and DCP clauses. <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>The application is supported without conditions</p>
NECC (Development Engineering)	<p>The proposed alterations and additions storm water management plan does not comply with section 5.5.1.2 -"Alterations and additions to a single dwelling and granny flats" of Councils water management for development policy.</p> <p>The applicant is to provide evidence the stepped out process has been followed and a suitable stormwater management system in accordance with the policy has been selected.</p> <p>DATED 15/06/2022</p> <p>itm design consultant has provided a refusal letter to obtain drainage easement rights from the adjoining property owner. The stormwater management submitted complies with Councils water management for development policy.</p> <p>No Development Engineering objection subject to recommended conditions.</p>

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.
Aboriginal Heritage Office	The application was referred to the Aboriginal Heritage Office with no objections raised, subject to the recommended conditions of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A428168 dated 17 December 2021).

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.

SEPP (Coastal Management) 2018

The site is classified as land within the coastal environment area and coastal use area under the State Environmental Planning Policy (Coastal Management) 2018. Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposal is for alterations and additions to an existing dwelling house and is not anticipated to have any adverse impacts in relation to the above matters.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The proposed development is appropriately designed and sited to avoid adverse impacts referred to in subclause (1).

14 Development on land within the coastal use area

- (1) (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to*

- foreshores,
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed alterations and additions are not considered likely to cause any adverse impacts in relation to the above matters, subject to compliance with the recommended conditions of consent.

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

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

Comment:

The proposal is unlikely to cause increased risk of coastal hazards on the site or surrounding land.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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	6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The proposal includes minimal excavation works and will not adversely impact adjoining properties or the natural environment. A Geotechnical Report has been provided with suitable recommendations included.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.6m	N/A	Yes
B3 Side Boundary Envelope	4m	E: Within envelope	N/A	Yes
		W: Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m	E: 0m - 1.3m	100%	No
		1.4m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	10.7m	N/A	Yes
B9 Rear Boundary Setbacks	6m	Pool: 2.5m	N/A	Yes (see comment)
		Dwelling: 8.8	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% 282.2m ²	46.2% 326.1m ²	N/A	Yes

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	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Easements		
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	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
D15 Side and Rear Fences	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The proposed garage eastern side setback of 0m to 1.3m is partially non-compliant with the 0.9m control.

Merit consideration

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

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

Comment:

The proposed setback breach occurs above an existing hardstand and does not reduce the deep soil area of the site.

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

Comment:

The proposed setback breach is not immediately visible from the street frontage and the amended garage design is considered to minimise the visual impact to the adjoining property. .

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

Comment:

The length of the non-compliant section of the proposed garage wall is limited to 5m and a maximum height of 3.3m at the property boundary. As such, the non-compliance will not give rise to an excessive or unreasonable level of bulk and scale.

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

Comment:

The proposed garage wall does not contain any windows and will not result in any unreasonable impacts in relation to privacy, amenity or solar access.

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

Comment:

The proposed setback breach will not impact any views to and from public and private properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

B9 Rear Boundary Setbacks

Compliance with control

The proposed 8.8m rear setback complies with the 6m control.

The proposed swimming pool encroaches within the 6m rear setback. However, this structure does not exceed 50% of the rear setback area and therefore complies with the control.

Notwithstanding the compliance with the control, the development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The development provides a compliant deep soil area and includes adequate landscaping and planting within the rear setback area.

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

Comment:

The proposal maintains a sense of openness within the rear yard.

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

Comment:

The amended swimming pool location will not unreasonably impact the amenity or privacy of the adjoining properties, noting the minimum 7m setback to the trafficable swimming pool deck.

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

Comment:

The proposal maintains the existing pattern of buildings, rear gardens and landscape elements. The proposed swimming pool location is consistent with those of existing pools in the vicinity of the site.

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

Comment:

The amended proposal maintains sufficient privacy for the occupants of the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

The proposal provides a single garage resulting in a shortfall of one car parking space.

Merit consideration

The existing development provides a hardstand parking space for one car. Given the positioning of the existing dwelling and the lack of an alternative car parking location on the site, the provision of one space is acceptable in this case. Further, the 11m front setback to the proposed garage allow ample

space for an additional informal parking space on the driveway with minimal encroachment into the front setback area.

Based on the above considerations, the proposal achieves the objectives of the control and is supportable on merit.

D6 Access to Sunlight

Compliance with control

The submitted shadow diagrams do not provide significant detail of the solar access impacts resulting from the development. However, based on the built form proposed outside of the existing building envelope - the proposed single garage, new terrace roof and swimming pool - it is apparent that the proposal will not result in substantial additional overshadowing.

At 9am there is anticipated to be overshadowing of the eastern side setback and eastern and northern elevations of the dwelling of 18 Leinster Avenue. At 12pm the additional impact is generally limited to the subject site, with minimal impact to the western side setback of 22 Leinster Avenue. At 3pm there is anticipated to be overshadowing of the western wall and side setback of No. 22.

Given the siting of the proposed works and the northern orientation of the sites, the proposal will maintain a compliant level of solar access to the private open spaces of the subject site and adjoining properties in accordance with the control.

D8 Privacy

Compliance with control

The proposal, as conditioned, complies with the requirements of the control as discussed below.

The proposed design and location of windows is acceptable and will not result in adverse privacy impacts. The proposal retains the existing location of the ground floor terrace, with the inclusion of a new planter/garden at the eastern elevation. As the proposed roof over the terrace will increase the usability of the area, a condition is recommended to include a privacy screen at the western elevation to mitigate overlooking of the adjoining property. As the proposed ground floor drying court adequately set back from the eastern boundary and is limited in size adjacent to the western boundary, no screening of this area is necessary.

A condition is recommended to include a privacy screen at the western elevation of the swimming pool deck to limit privacy impacts between the site and the adjoining property. The 7m rear setback to the trafficable pool deck provides sufficient physical separation from the adjoining properties to the rear and the proposed landscape screening and fencing at the northern boundary offer supplementary screening. The maximum height of the proposed pool (approximately 2m above natural ground level) would not allow a person using the pool to be substantially higher than a person standing at the natural ground level of the rear yard. Further, the anticipated frequency of use of the pool lower than that of the trafficable deck and terrace areas located further away from the rear boundary. As such, the pool location is not considered to result in adverse privacy impacts.

E10 Landslip Risk

The site is mapped as Landslip Risk Area B and a preliminary Geotechnical Report has been prepared in relation to the development, the recommendations of which are incorporated into the conditions of consent. The report advises that a detailed geotechnical investigation is not required in this case.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$13,692 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,369,169.

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

The application seeks consent for alterations and additions to the existing dwelling.

The key planning issues considered within the assessment are the proposed Warringah DCP built form non-compliances and the resulting amenity impacts of the proposal.

Three (3) submissions were received in relation to the development, and are addressed within the

report with suitable conditions imposed were necessary.

Assessment of the application against the Warringah LEP and DCP finds that the development is suitable in the context of the site, and is recommended for approval.

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 DA2021/2564 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 526 DP 218576, 20 Leinster Avenue, KILLARNEY HEIGHTS, 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
106 Proposed Ground Floor Plan	Rev. J, 7 April 2022	Atelier M
107 Proposed Lower Ground Floor Plan	Rev. H, 7 April 2022	Atelier M
108 Proposed Roof Plan	Rev. E, 7 April 2022	Atelier M
109 Proposed Street/South Elevation	Rev. C, 7 April 2022	Atelier M
110 Proposed East Elevation	Rev. C, 7 April 2022	Atelier M
111 Proposed North Elevation	Rev. C, 7 April 2022	Atelier M
112 Proposed West Elevation	Rev. C, 7 April 2022	Atelier M
113 Proposed Section	Rev. D, 7 April 2022	Atelier M
114 External Materials and Finished	Rev. B, 17 December 2021	Atelier M
119 Easter Boundary Elevation	Rev. B, 7 April 2022	Atelier M

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A428168	17 December 2021	Atelier M
Geotechnical Report	2 September 2021	Greywacke Geotechnics
Bushfire Risk Assessment	3 November 2021	Bushfire Planning Services

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
LA01 Site Plan	Issue B, 28 September 2021	Emily Simpson Landscape Architecture
LA02 Front Landscape Plan	Issue B, 28 September 2021	Emily Simpson Landscape Architecture
LA3 Front Planting Plan	Issue B, 28 September 2021	Emily Simpson Landscape Architecture
LA05 Terrace Landscape Plan	Issue B, 28 September 2021	Emily Simpson Landscape Architecture
LA06 Rear Landscape Plan	Issue B, 28 September 2021	Emily Simpson Landscape Architecture
LA07 Rear Planting Plan	Issue B, 28 September 2021	Emily Simpson Landscape Architecture

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) 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

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$13,691.69 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 \$1,369,169.00.

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

contribution payable for this development will be the total unpaid monetary contribution as adjusted.

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

The Northern Beaches Section 7.12 Contributions Plan 2021 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 \$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 THE CONSTRUCTION CERTIFICATE

6. Amendments to the approved plans

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

- Privacy screening shall be provided along the western elevation of the swimming pool deck and the ground floor terrace. The screening is to be a minimum height of 1.65m above FFL and have a maximum transparency of 30%.

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.

7. Geotechnical Report Recommendations have been Incorporated into Designs and

Structural Plans

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

8. Boundary Identification Survey

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

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

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

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

9. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPMENT POLICY, and generally in accordance with the concept drainage plans prepared by itm design, drawing number H-DA-00, 01 and 02, dated 08/06/22. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

10. Vehicle Crossings Application

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

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

Reason: To facilitate suitable vehicular access to private property.

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

12. **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.

13. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **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.

15. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **Protection of Rock and Sites of Significance**

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

17. **Tree and Vegetation Protection**

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,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

- c) 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.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree

(s) is prohibited.

Reason: Tree and vegetation protection.

18. 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.

19. 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.

20. Geotechnical Requirements

All recommendations included in the Geotechnical Report referenced in Condition 1 of this consent are to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

21. 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.

22. Installation and Maintenance of Sediment Control

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

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

23. Vehicle Crossings

The Applicant is to reconstruct one vehicle crossing 3.0 metres wide in accordance with

Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. The existing vehicular crossing is to be removed and new lay backs and kerb are to be constructed, including lay back for the adjoining property. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

24. Waste Management During Development

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

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

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

25. Aboriginal Heritage

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

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

Reason: Aboriginal Heritage Protection.

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

26. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans LA01 to LA07 inclusive, and consistent with the following conditions:

- i) all tree planting shall be 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 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, and shall be located at least 3.0 metres from buildings, 2.0 metres from structures, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- 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 and density, and at 4 plants per metre square for groundcovers and accents of a minimum 140mm container size at planting or as otherwise scheduled if greater in size and density, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- iv) screen planting to achieve at least 3 metres in height at maturity shall be planted along the northern and western boundary to the extent of the swimming pool, installed at a minimum 1

metre interval, and planted at a minimum 300mm pot size and at a desirable 75 litre size,
v) selected planting in proximity to the swimming pool shall comply with the requirement of Australian Standard AS 1926.1 for a Non Climbable Zone,
vi) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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.

27. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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. Geotechnical Certification Prior to Occupation Certificate

Certification from a suitably qualified and practicing Geotechnical Engineer that all recommendations included in the Geotechnical Report referenced in Condition 1 of this consent have been incorporated into the development shall be provided to the Principal Certifying Authority prior to the issue of a Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

29. Reinstatement of Kerb

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

30. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services.

Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

31. **House / Building Number**

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

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

Reason: Proper identification of buildings.

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

32. **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.

33. **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.

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

Signed

Rodney Piggott, Manager Development Assessments

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

Rodney Piggott, Manager Development Assessments