

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0683
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 3 DP 21243, 5 Bareena Road AVALON BEACH NSW 2107
Proposed Development:	Modification of Development Consent DA2019/0857 granted for alterations and additions to a dwelling house including a swimming pool
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nadine Elizabeth Alwill Richard James Hegarty
Applicant:	Nadine Elizabeth Alwill

Application Lodged:	02/09/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/09/2021 to 24/09/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

Development Consent was granted on 26 September 2019 under Development Application DA2019/0857 for alterations and additions to an existing dwelling house including a swimming pool.

This application has been made pursuant to Section 4.55(2) of the EP&A Act seeking to make the following amendments to the approved development:

Swimming Pool

- Re-located swimming pool to the rear yard. The swimming pool was previously approved along the western side boundary between the studio and dwelling house.

Dwelling Ground Floor

- Change roof profile of front porch over existing balcony to skillion roof.
- Extend front porch roof profile to full extent of building to the west.
- New window (W9/GF) added to western elevation.
- Fireplace relocated to internal location in between living and dining room.
- Approved laundry reverted back to bedroom.
- Laundry proposed to be enclosed within the envelope of the eastern end of approved rear balcony.
- New window (W10/GF) in new laundry location added to southern elevation.
- Approved southern extension to rear balcony deleted.
- Rear balcony with pergola cover extended to full width of building to the west.
- Rear balcony with pergola reduced in height.

Dwelling First Floor

- Reduced footprint of first floor addition to the south – resulting in 2 bedrooms, 1 bathroom and study at first floor only.
- Skillion roof shape over rear portion of ground floor retained where first floor envelope reduced in size.
- Roof over rear balcony lowered and changed to clear polycarbonate.
- All skylights deleted to roof area.
- Ridge height reduced slightly.

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

Pittwater 21 Development Control Plan - C1.23 Eaves

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 3 DP 21243 , 5 Bareena Road AVALON BEACH NSW 2107
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Bareena Road, Avalon Beach.

The site is regular in shape with a frontage of 15.24m along Bareena Road and a depth of 45.72m. The site has a surveyed area of 696.7sqm.

The site is located in the R2 Low Density Residential zone and accommodates a single storey dwelling house and a detached studio in the rear yard.

The site is relatively flat and experiences a gradual fall of approximately 1m that slopes towards the south-western corner of the lot.

The site contains landscaped open space within the front and rear yards and a number of low-lying and significant trees throughout the site.

The site is flood prone.

Description of Surrounding Development

Adjoining and surrounding development is primarily characterised by one and two storey dwelling houses. An attached dual occupancy, residential flat buildings and commercial premises' are also located within a 100m radius of the subject site.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. As search of Council's records has revealed the following relevant history:

- Complying Development Certificate CDC2019/0131 for alterations to an attached studio approved by Thomas Robertson Bowden on 11 March 2019.

- Development Application DA2019/0857 for alterations and additions to a dwelling house including a swimming pool approved by Council on 26 September 2019.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0857, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0857 for the following reasons:</p> <ul style="list-style-type: none"> • The modified development will not result in a materially different impact when compared to the approved development. • The modified development will not alter the approved land use.

Section 4.55 (2) - Other Modifications	Comments
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2019/0857 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
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Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. 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	Pittwater 21 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 in the original consent.</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 in the original 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 in the original 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 Pittwater 21 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	No submissions were received in relation to this application.
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 from 10/09/2021 to 24/09/2021 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal seeks modification of development consent DA 2019/0857, including changes to the exterior envelope of the building involving an overall reduction in scale and form and relocation of the proposed swimming pool to the rear of the property, therefore reducing the impact on neighbouring properties.</p> <p>The deletion of the rear balcony deck extension under the modification proposal reduces the impacts to the existing Bottlebrush, however the new laundry construction works are within a similar area and development consent conditions for tree protection requirements shall remain.</p> <p>No additional arboricultural assessment is provided with the modification application and it is noted that the relocated swimming pool, decking, and pool equipment storage is situated in close proximity to a large existing tree, and a condition shall be added for project arborist involvement in any excavation works and the location of structural design elements.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed DA involves relocating the proposed pool to the rear of the garden. Proposed pool coping is RL 10.18m AHD. The proposal generally meets the flood controls in the LEP and DCP.

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 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. A330364_02, dated 26 August 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.

Pittwater Local Environmental Plan 2014

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.42m	8.28m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	0.95m (Carport and Storage Area) 7.64m (front porch of Dwelling)	0.95m (Carport and Storage Area) 7.64m (front porch of Dwelling)	No (carport only) - however no further non-compliance
Rear building line	6.5m	21.6m (dwelling)	21.6m (dwelling) 5.5m (pool)	Yes - exemption for pool applies - see discussion
Side building line	2.5m (west)	0.21m (carport and storage) 2.1m (dwelling) 1.8m (pool coping)	0.23m (carport and storage) 2.1m (dwelling) 1.2m (pool coping)	No - however approved non-compliance reduced for carport and storage Pools permitted 1m from side/rear boundaries as exemption - see discussion
	1m (east)	0.95m (dwelling)	0.95m (dwelling)	No - however no further non-compliance
Building envelope	3.5m (west)	within envelope	within envelope	Yes
	3.5m (east)	within envelope	within envelope	Yes
Landscaped area	50% (348.35sqm)	53.83% (375sqm)	51.94% (361.9sqm)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	No	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	Yes	Yes
D1.15 Fences - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.23 Eaves

The first floor addition to the dwelling house remains devoid of 450mm eaves on all elevations. It is noted that a variation to this requirement was supported during the assessment of the Development Application, as the proposal demonstrated consistency with the outcomes of the control. The modified development remains consistent with the outcomes of this control and is worthy of support in this regard.

D1.8 Front building line

The approved development involved a carport located within the 6.5m front setback area, which does not satisfy the numeric front setback requirement. Despite this, the non-compliance was supported on merit due to consistency with the outcomes of the control. In assessing this particular Section 4.55(2) Modification, it is noted that the modified development does not exacerbate the approved front setback for the carport. Therefore, no further consideration of this control is required for the purpose of this assessment.

D1.9 Side and rear building line

The approved development involved variations to the side building line requirements, which requires development to be setback at least 1m from one side boundary and 2.5m from the opposing side boundary. Despite this, the non-compliances were supported on merit due to consistency with the outcomes of this control. It is noted that the approved side setbacks for the dwelling house remain unaltered.

However, this application involves re-locating the approved swimming pool to the rear yard, which involves a 1.2m setback from the western side boundary and a 5.5m rear setback. This involves variations to the 2.5m side setback requirement and 6.5m rear setback requirement.

Notwithstanding, the control permits an exemption provision that reads as follows:

"For swimming pools and spas a 1 metre minimum setback from the boundary to the pool coping may be permitted subject to the following:

- *satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and*
- *Council is satisfied that the adjoining properties will not be adversely affected, and*
- *the pool or spa is not more than 1 metre above ground level (existing), and*
- *that the outcomes of this clause are achieved without strict adherence to the standards, and*
- *where the site constraints make strict adherence to the setback impractical, and*
- *where strict compliance with these requirements will adversely impact on the views of adjoining residential properties".*

To determine compliance with this exemption, an assessment is carried out below as follows:

satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and

Comment:

The modified development maintains compliance with the 50% landscaped area provision and includes sufficient deep soil landscaping adjacent to the side and rear boundaries.

Council is satisfied that the adjoining properties will not be adversely affected, and

Comment:

The pool concourse is located 520mm above ground level and the existing boundary fencing and dense planting around the curtilage of the site will continue to provide a visual buffer between adjoining properties, which will ensure that a reasonable level of visual privacy is maintained.

the pool or spa is not more than 1 metre above ground level (existing), and

Comment:

As noted above, the pool concourse is sited 520mm above the existing ground level.

that the outcomes of this clause are achieved without strict adherence to the standards, and

Comment:

Council is satisfied that the outcomes of the control are achieved for the following reasons:

- The development maintains consistency with the Avalon Beach Locality Statement;
- The pool is not excessive in terms of visual bulk or scale;
- The pool does not result in adverse amenity impacts (i.e. overshadowing, view loss or privacy impacts); and
- Sufficient landscaping is maintained on the site.

where the site constraints make strict adherence to the setback impractical, and

Comment:

Strict compliance with the side and rear setback requirement will not result in an improved planning outcome.

where strict compliance with these requirements will adversely impact on the views of adjoining

residential properties.Comment:

The proposal does not impact any significant view lines. A numerically compliant design will not have a materially different impact in this regard.

Conclusion

Based off the above assessment, it is concluded that the proposal satisfies the exemption provision for swimming pools and therefore, is worthy of support.

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**

Section 7.12 contributions were levied on the Development Application.

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;
- Pittwater Local Environment Plan;
- Pittwater 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 approval to Modification Application No. Mod2021/0683 for Modification of Development Consent DA2019/0857 granted for alterations and additions to a dwelling house including a swimming pool on land at Lot 3 DP 21243,5 Bareena Road, AVALON BEACH, subject to the conditions printed below:

New Conditions to be imposed under this Modified Consent

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-102 (Issue S4.55)	August 2021	Alwill Architecture
DA-103 (Issue S4.55)	August 2021	Alwill Architecture
DA-105 (Issue S4.55)	August 2021	Alwill Architecture
DA-106 (Issue S4.55)	August 2021	Alwill Architecture
DA-107 (Issue S4.55)	August 2021	Alwill Architecture
DA-212 (Issue S4.55)	August 2021	Alwill Architecture
DA-213 (Issue S4.55)	August 2021	Alwill Architecture
DA-214 (Issue S4.55)	August 2021	Alwill Architecture
DA-311 (Issue S4.55)	August 2021	Alwill Architecture
DA-312 (Issue S4.55)	August 2021	Alwill Architecture
DA-313 (Issue S4.55)	August 2021	Alwill Architecture
DA-314 (Issue S4.55)	August 2021	Alwill Architecture
DA-401 (Issue S4.55)	August 2021	Alwill Architecture
DA-402 (Issue S4.55)	August 2021	Alwill Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Comments for Section 4.55 Ref. J2376A.	27 August 2021	White Geotechnical Group
BASIX Certificate No. A330364_02	27 August 2021	Alwill - Design Pty Ltd

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

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

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

Condition No. 11A - Flooding (Fencing)

In order to protect property and occupants from flood risk the following is required:

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Condition No. 18A - Project Arborist supervision to swimming pool, decking and associated works

The proposed swimming pool, decking and pool equipment works involving excavation and construction in close proximity to the existing site tree along the boundary between properties No. 5 and No. 3 shall be supervised by a Arborist with AQF Level 5 qualifications in arboriculture/horticulture and shall be engaged to provide the following recommendations:

- investigation and determination of critical roots required to be retained in-place,
- suggested location of pier footings within the tree protection zone,
- any recommended tree protection measures.

The Arborist shall provide certification details to the Certifying Authority that the design of the swimming pool, decking and pool equipment works achieves the requirement to retain the existing trees.

Reason: to ensure that the excavation for construction does not impact upon existing trees to be preserved.

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

Condition No. 21 - Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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; and
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact.

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life.

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

Condition No. 22 - Pool Filter Noise

All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

Reason: To ensure an appropriate level of residential amenity.

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

Signed



Thomas Burns, Planner

The application is determined on 12/10/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments