

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1014
----------------------------	-------------

<b>Responsible Officer:</b>	Penny Wood
<b>Land to be developed (Address):</b>	Lot 432 DP 16902, 96 Palmgrove Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	James Ivan Matheson Kennedy Jennifer Ann Thorn
<b>Applicant:</b>	Hot House Studio

<b>Application Lodged:</b>	28/08/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	08/09/2020 to 22/09/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 297,000.00
---------------------------------	---------------

### PROPOSED DEVELOPMENT IN DETAIL

The subject application proposes alterations and additions to a dwelling house.

The alterations and additions are detailed as follows:

#### Ground floor:

- Extensions of an existing deck on the northwest (front) side of the dwelling.
- A new 1.25 metre wide deck is proposed along the northeast side of the dwelling.
- Minor internal layout changes to the existing dwelling.
- A new side-entrance door, removal of an existing door and a relocated window within the existing laundry.

- New doors and windows at the rear of the existing dwelling.
- New roofing above the ground floor areas.
- A new studio (with bathroom) is to be located within the ground floor of the proposed additions to the rear of the dwelling .
- A new 7.12m x 6.3 metre (excluding walkways) alfresco area is to be located immediately to the rear of the existing dwelling between the rearward additions and the northwest side boundary.

#### First floor:

- Internal layout changes including resized windows on both side elevations.
- The balcony on the primary elevation is to be slightly reduced in size.
- A new bedroom (with a ensuite and walk-in-robe) is to be situated within the first floor of the proposed additions to the rear of the dwelling.
- The resized balcony at the front of the dwelling is to be re-roofed. A new skylight is to be installed within the existing roof on the first floor.

#### Site:

- A new in-ground swimming pool is to be built within the rear northeast corner of the site.
- New pathways are to be erected on both sides and rear of the new alfresco area and additions to the rear of the dwelling.
- Four (4) trees are proposed to be removed, which will include three (3) palm trees and one (1) Sasanqua tree.

No change is proposed to the lower ground floor (i.e. garage) level of the dwelling.

Amended plans were received on 25 November 2020 which reduced the height of the roof extension over the first floor balcony at the front (north western elevation) of the dwelling. The amended plans have removed the pool decking along the south western side of the pool and replaced with grass.

### **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 Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.7 Private Open Space  
 Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures  
 Pittwater 21 Development Control Plan - D1.8 Front building line  
 Pittwater 21 Development Control Plan - D1.9 Side and rear building line  
 Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 432 DP 16902 , 96 Palmgrove Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site is identified as 96 Palmgrove Road, Avalon Beach (Lot 432, DP 16902), and is located on the southeast side of Palmgrove Road.</p> <p>Aside from an angled rear boundary, the site is otherwise a regularly-shaped allotment with a frontage of 15.24 metres and a maximum depth of 36.83metres. The site has a surveyed area of 539m<sup>2</sup> and is notably sloped, with a rear-to-front fall of approximately six metres.</p> <p>The site is located within an R2 Low Density Residential zone, with all boundaries adjoining R2-zoned sites. It is mapped as containing class 5 Acid Sulphate Soils and as being affected by a geotechnical hazard and biodiversity considerations (a 'CO2' wildlife corridor). The site does not contain a heritage item, is not within a heritage conservation area nor is it in close proximity to a heritage item.</p> <p>Development on the site includes a two-storey detached dwelling with an integrated garage beneath. An above-ground swimming pool is located within a paved area on the northwest side of the dwelling.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Development on adjoining sites consists of 1-3 storeys (including garages beneath), while the surrounding area contains predominantly low density residential development, which predominantly consists of detached dwelling houses and associated structures (e.g. swimming pools, sheds, etc.).</p>

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 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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000	<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



Section 4.15 Matters for Consideration'	Comments
(EP&A Regulation 2000)	<p>consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to tree retention, landscaped area and building height. This information was received on 25 November 2020.</p> <p><u>Clause 92</u> of the EP&amp;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&amp;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&amp;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&amp;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&amp;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 this application.</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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 08/09/2020 to 22/09/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mrs Sandra Gai Skelly	94 Palmgrove Road AVALON BEACH NSW 2107

The following issues were raised in the submissions and each have been addressed below:

- Concern is raised regarding the solid fuel stove in the new ground floor area. There are better heating options available especially when there is no fuel on the block for the stove and the heat from the flue is not being used to heat the master bedroom.
- There is concern that smoke will access dwellings on adjoining sites.

The matters raised within the submissions are addressed as follows:

- Concern is raised regarding the solid fuel stove in the new ground floor area. There are better heating options available especially when there is no fuel on the block for the stove and the heat from the flue is not being used to heat the master bedroom. There is concern that smoke with access dwellings on adjoining sites.

### Comment:

Council's Environmental Health Officer does not support the location of the flue for the solid fuel heater given the height and location could lead to smoke being trapped under the eaves of the neighbouring property; Number 94 Palmgrove Rd Avalon. This could on still nights and when the wind blows in this direction, blow smoke directly into the windows causing a negative impact on this property. The flue is required to be relocated away from the current proposed location or

rise the flue above the roof line of Number 94 Palmgrove Rd Avalon to avoid smoke entering this property.

This was raised with the applicant who advised that they would like to delete the solid fuel heater from the plans.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p><b>General Comments</b></p> <p>The proposed location and height of the flue for the solid fuel heater could lead to smoke being trapped under the eaves of the neighbouring property; Number 94 Palmgrove Rd Avalon. This could on still nights and when the wind blows in this direction, blow smoke directly into the windows causing a negative impact on this property. For this proposed solid fuel heater to gain approval, relocate the flue away from the current proposed location or rise the flue above the roof line of Number 94 Palmgrove Rd Avalon to avoid smoke entering this property.</p> <p><b>Recommendation</b></p> <p>REFUSAL</p>
Landscape Officer	<p>The proposal is for alterations and additions to an existing dwelling and associated external works.</p> <p>Council's Landscape Referral is assessed against the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D1 Avalon Beach Locality</li> </ul> <p>The landscape character of the existing site is of a suburban garden with predominately lawn area, paved area and walling, and exotic gardens. A native canopy tree exists within the road verge, and various native canopy trees exist within adjoining properties. Conditions of consent shall be imposed to protect such trees.</p> <p>Landscape Referral has no objections to the proposal subject to tree protection measures and completion of landscape works.</p>
NECC (Development Engineering)	No objections o approval subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response

External Referral Body	Comments
	stating there are no Ausgrid assets near the proposed development.

## **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 continued residential land use.

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A386251, dated 14 August 2020). The BASIX commitments have been checked and are consistent with the submitted plans.

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. A response was received on September 29 which confirmed that there are no Ausgrid assets near the proposed development.

Roads and Maritime Service (RMS)

The site is not located on/adjacent to part of the NSW classified road network. A referral to RMS is therefore not required.

**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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	N/A
7.1 Acid sulfate soils	N/A
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

**7.1 Acid sulfate soils**

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map. The works will not be below 5 mm AHD, therefore an ASSMP is not

required.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.7m	6.5m	3%	No
Rear building line	6.5m	Dwelling - 6.5m Pool coping - 1.0m	N/A 84.6%	Yes No
Side building line	2.5m	NE: 2.0m	20%	No
	1m	SW: 1.8m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60% (323.4sqm)	36.3% (195.7sqm) (50% (269.14sqm) Inclusive of 6% variation and impervious areas less than 1.0m wide)	39.5% 16.83%	No No

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

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	N/A	N/A
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	N/A	N/A
B6.2 Internal Driveways	N/A	N/A
B6.3 Off-Street Vehicle Parking Requirements	N/A	N/A
B6.6 On-Street Parking Facilities	N/A	N/A
B6.7 Transport and Traffic Management	N/A	N/A
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	N/A	N/A
B8.6 Construction and Demolition - Traffic Management Plan	N/A	N/A
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	N/A	N/A
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
C1.8 Dual Occupancy Specific Controls	N/A	N/A
C1.9 Adaptable Housing and Accessibility	N/A	N/A
C1.12 Waste and Recycling Facilities	N/A	N/A
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	N/A	N/A
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	N/A	N/A
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	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	No	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	No
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **C1.5 Visual Privacy**

The placement of the proposed windows are acceptable, as they will consist of high-sill (i.e. 1.5-1.7 metre high) windows. The southeast-facing windows on the first floor will be associated with a bedroom and as such will not result in frequent overlooking opportunities. The northeast-facing windows for the new additions will be sufficiently set back from the northeast side boundary.

The proposed deck on the northeast side of the dwelling will however be elevated between 1-2 metres while being set back 2.018 metres from the side boundary. This deck will be 1.25 metres wide and would provide access between the front and rear setbacks; the dimensions and likely use of the deck

are unlikely to promote frequent use and gathering (like the proposed patio within the rear setback). Further, direct access from internal rooms is not proposed to this deck. The deck is therefore unlikely to frequently and considerably affect the visual privacy of the adjoining site. Further, there is an existing at-grade pathway within the area to be occupied by the proposed deck, therefore the elevation of such a passageway is unlikely to significantly increase visual privacy impacts on the adjoining site to the northeast (i.e. 98 Palmgrove Road). From a visual privacy standpoint, the placement of the deck is therefore considered to be acceptable.

No submissions have been received which object to the proposed development on heritage grounds.

### **C1.7 Private Open Space**

At least 91m<sup>2</sup> of private open space is provided within the rear setback (including minimum dimensions but excluding areas segregated by barriers (e.g. the swimming pool)).

A 51.8m<sup>2</sup> principal private open space area is proposed within the rear setback; minimum dimensions and grades are provided. Sufficient solar access will be provided to such areas.

### **C1.14 Separately Accessible Structures**

The placement and design of the studio (noting that no kitchen/wet bar facilities are proposed within the studio) is such that it is unlikely to be used as a separate domicile. Conditions are recommended that will require the approved development to be used only as a dwelling house, and that consent is not granted for a separate use.

### **D1.8 Front building line**

The location of the existing front building line will not be altered and has therefore not been assessed.

The extension to the deck will reduce the front setback of this element by 400mm to 6.5 metres from the front boundary. Based on the submitted survey plan, the average front setback balconies/decks of the two nearest dwellings (i.e. 94 and 98 Palmgrove Road) is 6.7 metres; the proposed front setback is therefore a 200mm (i.e. 3%) variation to the minimum front setback controls.

The visual impact of such a non-compliance is likely to be negligible from the public domain (i.e. Palmgrove Road), particularly as the building line is to remain unchanged and the additions are to increase the depth of an existing deck. The amenity and desired character of the locality is therefore unlikely to be adversely affected. The proposed expansion of the deck will also have no impact on vegetation and vehicular access to the site.

With regard to the above, despite the variation the objectives of the control will be satisfied. The proposed variation is therefore acceptable and supportable on merit.

### **D1.9 Side and rear building line**

#### **Proposed side setbacks:**

- Northeast: Minimum 2.0 metres
- Southwest: Minimum 1.8 metres

**Proposed rear setback:** Minimum 8.2 metres

The rear and southwest side setbacks comply with the DCP and will not be discussed further.

While the northeast side building line is to remain unchanged, a deck is proposed within the side setback area that will be set back 2.0 metres from the boundary; this will be a 500mm (i.e. a 20%) variation to the development control. The proposed deck will be an extension of the deck on the front elevation, and is therefore unlikely to have any impact on visual amenity when viewed from adjoining sites and the public domain. Views will not be affected by this element, and as it is on the northwest side of the dwelling the variation will not adversely affect solar access to surrounding sites. Visual privacy is assessed under DCP Section C1.3 (refer to the separate assessment within this report) and has been found to be satisfactory despite the variation. Further, as the deck will replace an existing pathway, landscape area will not be significantly reduced as a result of the variation.

The control also allows a variation to the rear setback control for swimming pools given the pool coping is no less than 1.0m from the rear boundary. The pool coping is located 1.0 from the rear boundary and is considered to have a minimal impact on the amenity of the adjoining properties.

With regard to the above, despite the variation the objectives of the control will be satisfied. The variation is therefore acceptable and supportable on merit.

#### **D1.14 Landscaped Area - Environmentally Sensitive Land**

The control requires at least 60% (323.4sqm) of the site area to be landscaped. The proposed landscaping is non-compliant with the control as follows:

- landscaping with no variations: 36.3% (195.7sqm); and
- landscaping with permitted variations: 50% (269.14sqm).

#### **Merit Assessment**

With regard to the consideration for a variation, the proposal is considered against the underlying outcomes of the control as follows:

- *To achieve the desired future character of the Locality.*

#### **Comment:**

As discussed in the section of this report relating to Clause A4.1 of the Pittwater 21 Development Control Plan, the proposal is considered to demonstrate consistency with the desired future character statement of the Avalon Beach locality.

- *The bulk and scale of the built form is minimised.*

#### **Comment:**

The development proposes a modest addition to the rear of the existing dwelling which will accommodate a studio at ground floor and master bedroom with ensuite at first floor. The master bedroom is accessible from the first floor with the studio being detached at ground floor with a 1.0m wide breezeway located between the new addition and the dwelling. The two storey rear addition will be located along the south western elevation with a roofed pergola located along the the north eastern site



of the addition. The location of the proposed works to the rear and generous side setbacks will ensure that the bulk and scale of the development is minimised. Amended plans received on 25 November 2020 have removed the decking around the pool and replaced with grass to increase the amount of landscaped area within the site. Given the generous setbacks, modest height of the proposed works and existing vegetation on the site and surrounds, the development will not appear as visually prominent within the rear yard and when viewed from Palmgrove Avenue.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment:

The existing vegetation located on adjoining properties will screen the development, thereby ensuring a reasonable level of privacy is maintained. The design and siting of addition at the rear of the dwelling will ensure the privacy of surrounding dwellings is maintained and protected. The generous setback to the north eastern elevation and the use of highlight windows along both northe eastern and south western elevation will protect the amenity of nearby dwellings with no objection raised in regards to overlooking. Given the modest height of the development at the rear of the dwelling, no unacceptable overshadowing impacts are anticipated to arise. The existing vegetation located within the site and adjoining properties, in conjunction with the proposed landscape treatments in the rear yard, will enhance the natural amenity of the area.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

The development will result in a reduction in landscaped open space and will require the removal of three (3) trees and the protection of T02 during construction. Landscaping is to be implemented in accordance with the Landscape Plan DA120 dated 16 October by Hot House Studio. The development will be screened from adjoining properties due to existing vegetation within the locality and that the development is modest in terms of bulk and scale.

- *Conservation of natural vegetation and biodiversity.*

Comment:

The development will not have an adverse impact on the biodiversity of the locality.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

Suitable conditions have been include with this consent to ensure that stormwater is appropriately managed.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

Having regard to the modest scale of the development, it is considered that the proposal will preserve the bushland character of the area.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

As noted above, suitable conditions have been included to ensure that stormwater is appropriately managed.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit in this particular circumstance, subject to conditions.

## **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 2019**

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

A monetary contribution of \$2,970 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$297,000.

## **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:

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/1014 for Alterations and additions to a dwelling house on land at Lot 432 DP 16902, 96 Palmgrove Road, AVALON BEACH, 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
DA010 Issue B	23 November 2020	Hot House Studio
DA100 Issue B	23 November 2020	Hot House Studio
DA101 Issue B	23 November 2020	Hot House Studio
DA110 Issue B	23 November 2020	Hot House Studio
DA200 Issue B	23 November 2020	Hot House Studio
DA201 Issue B	23 November 2020	Hot House Studio
DA202 Issue B	23 November 2020	Hot House Studio
DA203 Issue B	23 November 2020	Hot House Studio
DA300 Issue B	23 November 2020	Hot House Studio
DA500 Issue B	23 November 2020	Hot House Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report	15 October 2020	Hugh The Arborist
Risk Analysis & Management for	16 August	Hodgson Consulting

Proposed alterations and additions and swimming pool at 96 Palmgrove Rd, Avalon Beach QY 00127	2020	Engineers
BASIX Certificate No. A386251	14 August 2020	Hot House Studio

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA120 Issue B	23 November 2020	Hot House Studio

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Northern Beaches Waste Management Plan	13 August 2020	Hot House Studio

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. **Approved Land Use**

Nothing in this consent shall authorise the use of the site/onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a 'dwelling house'.

A 'dwelling house' is defined by *Pittwater Local Environmental Plan 2014* as a building containing only one dwelling.

Any variation to the approved land use and/occupancy of any part of the site beyond the scope of the above definition will require the submission to Council of a new development application.

For the avoidance of doubt, the proposed 'studio' is not to be used for separate habitation and shall not contain cooking facilities.

Reason: To ensure compliance with the terms of this consent.

## 3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

#### 4. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,



- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- v) For any work/s that is to be demolished  
The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;  
  
Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,970.00 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$297,000.00.

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 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

## 6. **Security Bond**

A bond (determined from cost of works) of \$1,500 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](http://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**

## 7. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's

PITTWATER DCP21. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

8. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Hodgson Consulting Engineers dated 16 August 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. 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.

9. **Amendments to the approved plans**

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

- Boundary fences behind the front building line are to not exceed a height of 1.8 metres and be in accordance with D1.16 (Fences - Flora and Fauna Conservation Areas) of Pittwater 21 Development Control Plan.

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.

10. **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.

11. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are

to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

**12. Compliance with Standards**

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

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

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

**13. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) 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. (DACPLC03)

**14. 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](http://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.

**15. Removal of Solid Fuel Heater**

This consent does not authorise the installation and use of a solid fuel heater. The 'fire place' and flue are to be removed from all plans prior to the issue of a construction certificate.

Reason: To minimise environmental impacts.



**16. Tree removal within the property**

The following trees as proposed for removal in Plan DA010 and as recommended in the Arboricultural Impact Assessment are Exempt Species not requiring Council consent.

- Plan DA010: T05, T09, and T11
- Arboricultural Impact Assessment: tree 2

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**17. 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.

**18. 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.

**19. Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

20. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

21. **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.

22. **Protection of street trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages.

The existing street tree within the frontage of the development site, identified in Plan DA010 as T02, shall be protected by tree protection fencing to the extent and alignment as determined by an Arborist with minimum AQF Level 5 in arboriculture, in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites, and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings.

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,

Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, Council's Public Trees section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: tree protection.

23. **Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not nominated for removal in Plan DA010 nor in the Arboricultural Impact Assessment, 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), vi) and vii) 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) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
  - x) 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.
  - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.
- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment prepared by Hugh The Arborist, as listed in the following sections: 6, 7, and 8.

The Certifying Authority must ensure that:

- d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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.

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

### **24. Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan DA120, prepared by Hot House Studio, inclusive of the following conditions:

- i) existing boundary planting to the rear yard shall be retained and additional screen planting shall be installed to the extent of the patio, swimming pool and rear lawn area to all three boundaries,
- ii) the selected planting is to comprise of native species capable of attaining a height of 3.0 metres at maturity,
- iii) plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

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

Reason: environmental amenity.

### **25. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

### **26. Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **27. 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 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

(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 (DACPLF09)

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

#### 28. **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 fertilized 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.

Reason: to maintain local environmental amenity.

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

**Signed**



**Penny Wood, Planner**

The application is determined on 02/12/2020, under the delegated authority of:

*REnglund.*

**Rebecca Englund, Acting Development Assessment Manager**