

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0707
<b>Responsible Officer:</b>	Megan Surtees
<b>Land to be developed (Address):</b>	Lot 168 DP 16327, 20 York Terrace BILGOLA PLATEAU NSW 2107
<b>Proposed Development:</b>	Construction of a swimming pool and associated works
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	Yes
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Kristeen Josephine Dyball Benjamin Edwin Dyball
<b>Applicant:</b>	Shaun Douglas Wright
<b>Application lodged:</b>	04/07/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	15/07/2019 to 29/07/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 80,000.00

### 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 - B8.3 Construction and Demolition - Waste Minimisation

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D3.7 Side and rear building line

Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 168 DP 16327 , 20 York Terrace BILGOLA PLATEAU NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of York Terrace.</p> <p>The site is irregular in shape with a frontage of 12.1m along York Terrace and a depth of 44.8m. The site has a surveyed area of 524.8m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a one (1) and two (2) storey residential dwelling.</p> <p>The site is located on a slope of approximately 26.9% falling in the direction from the street frontage towards the rear of the property. The site has a westerly orientation.</p> <p>The site has some vegetation. The front setback has a small area of garden and the rear setback has a small area of astro turf adjacent to the deck and beyond this is dense bush, primarily palm trees, to the rear boundary line.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by two (2) storey residential dwellings located on similar topographies.</p> <p>A site visit was conducted on 31 July 2019.</p>

Map:



## SITE HISTORY

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

### 21 November 1991

A Building Application (BA5001/7969) was lodged with Council for the inspection of frames and floor joists. This was deemed to be satisfactory.

### 12 October 2018

A Development Application (DA2018/1671) was lodged with Council for the construction of a swimming pool. At the request of Council, this application was withdrawn by the applicant on 14 January 2019.

### 7 January 2019

A permit request (PER2019/00005) was lodged with Council for a Stand Plant with the reason being to hoist the proposed swimming pool onto the property. This permit request was refused.

### 15 April 2019

A Development Application (DA2019/0381) was lodged with Council for alterations and additions to a dwelling including the installation of a swimming pool. This application was rejected based on insufficient information provided.

### 15 April 2019

A Building Certificate (BC2019/0072) was lodged with Council for the unauthorised works associated with the rear deck. This application was cancelled.

### 7 May 2019

A Building Certificate (BC2019/0091) was lodged with Council for the unauthorised works associated with the rear deck. This application was approved on 7 August 2019.

## PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the following alterations and additions to an existing residential dwelling:

- Construction of a swimming pool.
- Refurbish existing timber deck
- Extension of existing timber deck.
- Vergola over timber deck extension.
- External stairs along the southern elevation to achieve access to the rear yard from the deck extension.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 (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

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.



## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.6 Wildlife corridors.</p> <p>The proposal is for the Installation of a fiberglass Swimming Pool within an existing timber deck, a deck extension and vergola.</p> <p>The proposal plans indicate the removal of one palm which is an exempt species.</p> <p>Council Natural Environment - Biodiversity section supports the application, subject to conditions.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> <li>1. No flood risk.</li> <li>2. It is a low level property.</li> <li>3. Part of the site is located within Geotechnical Hazard Area. An "Acceptable Risk Management" level is achieved in accordance with the geotechnical report prepared by Ascent Geotechnical Consulting, dated 27 May 2019.</li> <li>4. No OSD is required.</li> </ol> <p>No objection to approval, subject to conditions as recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

## 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. A355254 on 7 August 2019).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

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

### 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	4.8m (vergola structure)	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Pittwater 21 Development Control Plan

##### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	6.5m	11.4m	N/A	Yes
Side building line	2.5m	1.2m	N/A	No
	1m	0.9m	N/A	No
Building envelope	3.5m (southern side boundary)	Within envelope	N/A	Yes
Landscaped area	60%	27.1%	N/A	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
A4.3 Bilgola Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
Management		
B8.3 Construction and Demolition - Waste Minimisation	No	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
D3.2 Scenic protection - General	Yes	Yes
D3.7 Side and rear building line	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	No	Yes

#### Detailed Assessment

#### **B8.3 Construction and Demolition - Waste Minimisation**

A Northern Beaches Council Waste Management Plan has not been submitted with this application. A condition of consent will be recommended to ensure a Northern Beaches Council Waste Management Plan is provided to the Principal Certifying Authority prior to the issue of a Construction Certificate to ensure any construction and builders' waste is either reused or disposed of in an environmentally friendly manner.

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

This control requires private open space areas, including swimming pools, of the subject site or adjoining dwellings to be protected from direct overlooking within nine (9) metres. The siting of the swimming pool is located 1.2m off the northern side boundary and the rear private open space of the adjoining property is within this nine (9) metre parameter. The proposed works are sited primarily on the existing timber deck which is to be refurbished and extended as part of this application. No privacy screen has been proposed along the northern elevation. A condition of consent will be recommended to ensure the 1.2m high pool fence along the northern elevation is frosted to achieve a degree of privacy for the occupants of the subject site, as well as to minimise the bulk of the development. It is determined a 1.8m high privacy screen situated along the northern elevation of the deck would be excessive in size and achieve a bulk that is inconsistent with the amenity of neighbouring properties.

With regard to the consideration for a variation, the proposed development is considered against the objectives of this control as follows:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

Comment:

The proposed swimming pool will be located in close proximity to the dwellings existing living areas so as to act as a direct extension to the external living areas. The proposed works are located primarily over the existing building footprint of the timber deck, with a minor deck extension to the southern area of the rear yard. The proposed decking is not considered to be excessive. A condition of consent will be recommended to ensure the 1.2m high swimming pool fence along the northern elevation will be frosted.

- *A sense of territory and safety is provided for residents.*

Comment:

The proposed development will maintain the sense of territory and safety currently obtained by the occupants of the subject site and to those at adjoining properties.

### **D3.7 Side and rear building line**

#### **Side Boundary Line**

Requirement

1.0m on one side

2.5m on the other side

Proposed

*Northern Boundary:*

Nil - deck

1.2m - pool edge

*Southern Boundary:*

Nil - access stairs and landing

0.9m - deck extension and vergola structure

Merit Consideration

The proposed development is numerically non-compliant with the requirements as outlined above. However, this control allows for a variation to be applied where alterations and additions to an existing structure are proposed, further maintaining the existing setbacks that may be less than specified where it is shown the outcomes of the clause can be achieved. The proposed development can achieve the outcomes in the following ways:

*To achieve the desired future character of the Locality*

- Comment:  
Under A4.3 of P21 DCP the proposal is consistent with the objectives of the desired future character of Bilgola Plateau. The proposed development will achieve a compliant height that is well below the existing tree canopy, as well as retaining the dense vegetation located east of the deck. Furthermore, the bulk and scale of the proposed development is minor in nature and will not create a great impact upon neighbouring properties.

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

- Comment:

The proposed development, whilst it is above ground at approximately 2.3m, it will be of minimal bulk and scale. A condition of consent will be recommended within this report to ensure a portion of the northern area of the deck is off the northern side boundary by 900mm to achieve a reasonable level of amenity for the occupants of the subject site and the neighbouring property.

*Equitable preservation of views and vistas to and/or from public/private places*

- Comment:  
The proposed development will not impact upon the views currently obtained by the occupants of the subject site and those of the neighbouring properties.

*To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping*

- Comment:  
As discussed above, the proposed development will not impact upon the views of neighbouring properties.

*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties*

- Comment:  
The site is subject to a steep slope which creates difficulty in achieving complete compliance with privacy for the occupants of the subject site, as well as those of adjoining properties. However, a condition of consent will be recommended to ensure the northern side pool fence will be a frosted glass to achieve a degree of privacy and increase the amenity of the subject site and adjoining properties.

*Substantial landscaping, a mature tree canopy and an attractive streetscape*

- Comment:  
The rear yard of the subject site has a large amount of palm trees and other vegetation of the like which provides for an attractive outlook, as well as achieving a high level of privacy for properties to the east of the subject site, as well as for the occupants of the subject site. A condition of consent will be recommended to ensure screen planting to the north of the pool and deck area is installed to achieve a mature height of approximately 3.5m. This will contribute to the landscaped area of the site, as well as visually reducing the built form when viewed from neighbouring properties.

*Flexibility in the siting of buildings and access*

- Comment:  
No unreasonable amenity impacts will arise as a result of the proposed development.

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

- Comment:  
A small area of vegetation is proposed to be removed. However, a condition of consent has been recommended to reduce the length of the deck along the northern elevation by 900mm, this will allow a degree of land to be used for future screen planting, thus visually reducing the built form. As discussed above, a condition of consent will be recommended to ensure screen planting is installed north of the pool and deck area.

*To ensure a landscaped buffer between commercial and residential zones is established*

- Comment:  
The subject site is within and surrounded by residential zoning, therefore this objective does not apply.

While the proposal is numerically non-compliant, it is considered to be consistent with the underlying objectives of the control and is therefore supported.

### **D3.11 Landscaped Area - Environmentally Sensitive Land**

#### *Requirement*

315.88m<sup>2</sup> or 60%

#### *Proposed*

141.7m<sup>2</sup> or 27.1% (without variations)  
181.9m<sup>2</sup> or 35% (with variations)

#### Merit Consideration

The proposed development is numerically non-compliant with the requirement as outlined above. However, this control allows for a variation to be applied where it can be shown the proposal achieves the underlying objectives of this control. The proposal can achieve the objectives of the control in the following ways:

*Achieve the desired future character of the Locality.*

- Comment:  
Under 4.3 of P21 DCP the proposal is consistent with the objectives of the desired future character of Bilgola Plateau. The proposed development will achieve a compliant height that is well below the existing tree canopy, as well as retaining the dense vegetation located east of the deck. Furthermore, the bulk and scale of the proposed development is minor in nature and will not create a great impact upon neighbouring properties.

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

- Comment:  
While the proposal is above ground by approximately 2.3m, the overall bulk and scale is minor in nature resulting in minimal impacts upon neighbouring properties.

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

- Comment:  
The subject site is located on a steep slope which creates difficulty in achieving complete compliance with the requirements for obtaining privacy for the occupants of the subject site, as well as those of adjoining properties. A condition of consent has been recommended to ensure the pool fence along the northern elevation is of frosted materials to achieve a degree of privacy and increase the amenity of the subject site and adjoining properties.

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

- Comment:  
A small area of vegetation is proposed to be removed. However this vegetation is primary earth and turf. A condition of consent has been recommended to bring the deck in along the northern elevation by 900mm, this will allow a portion of land to be used for future screen planting, thus visually reducing the built form. As previously discussed in this report, a condition of consent will be recommended to ensure screen planting is installed north of the pool and deck area to visually reduce the built form.

*Conservation of natural vegetation and biodiversity.*

- Comment:  
No significant vegetation is proposed to be removed as part of this application. The rear yard has dense vegetation which is to be retained, thus conserving the natural vegetation and biodiversity of the subject site.

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

- Comment:  
While a small portion of the natural vegetation is proposed to be removed and replaced with decking, the stormwater runoff will flow into the swimming pool, thus minimising the impact of stormwater runoff on soil erosion.

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

- Comment:  
As discussed above, the retention of large turfed area and palm trees within the rear yard will achieve the rural and 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:  
The proposed swimming pool and deck extension will replace a portion of earth on the site which is currently not impacted by any built form. However, the large area of turf within the rear setback will be maintained, thus contributing to the soft surface of the site that can provide for filtration of water into the water table. The proposed swimming pool will minimise stormwater run-off, thus assisting in stormwater management.

While the proposal is numerically non-compliant it is considered to be consistent with the underlying objectives of the control and is therefore supported on merit.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this 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 Development Consent to DA2019/0707 for Construction of a swimming pool and associated works on land at Lot 168 DP 16327, 20 York Terrace, BILGOLA PLATEAU, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L/01	5 October 2018	Contour Landscape Architecture
L/02	19 October 2017	Contour Landscape Architecture

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Assessment	27 May 2019	Ascent Geotechnical Consultants

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:

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

### 2. **Prescribed Conditions**

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

- (iii) stating that unauthorised entry to the work site is prohibited.  
Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

### 3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is

located on Council's website at [www.northernbeaches.nsw.gov.au](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**

### **5. 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 Ascent Geotechnical Consulting dated 27 May 2019 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.

### **6. Amendments to the approved plans**

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

- The northern elevation of the deck is to be setback 900mm from the northern side boundary for a length of 5 metres. This is to minimise the bulk of the pool fence and achieve greater amenity for the neighbouring property.
- The swimming pool fence along the northern elevation is to be frosted. This is to ensure a degree of privacy for the occupants of the subject site and adjoining properties.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

### **7. Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

### **8. 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.

9. **Waste Management Plan**

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

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

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

10. **Additional Screen Planting**

Screen planting with a minimum height of 3.5m is to be installed between the deck area and the northern side boundary for a distance of 5m. Species selection is to incorporate locally native species. This planting is to be maintained for the life of the development if any part of it dies, is destroyed or removed.

Reason: to visually reduce the pool and deck structure and achieve a degree of visual privacy between adjoining properties.

11. **Boundary Survey**

A Boundary Survey is to be conducted of the northern and southern boundaries of the subject site prior to the issue of a Construction Certificate. The Boundary Survey is to be prepared and signed by a registered surveyor.

Reason: to ensure the proposed works are contained wholly within the subject site.

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

12. **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)] and
- 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.
- 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.

13. **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.

**14. Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

**15. New vegetation planting**

Any new landscaping is to incorporate a minimum of 60% locally native vegetation species (as per species listed in the Native Gardening Booklet available on Councils website)

Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls.

**16. No Material Storage within 5m of trees to be retained**

No storage of building materials or building waste, excavated fill or topsoil storage is to occur within 5m or the notional TPZ of trees shown on the approved proposal plans as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

Reason: To protect and retain trees proposed for retention.

**17. Waste Management During Development**

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

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

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

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

**18. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. 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.

19. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

20. **New vegetation planting**

Prior to the issue of any Occupation Certificate, evidence that any new vegetation planting comprises a minimum of 60% locally native vegetation species (as per species listed in the Native Gardening Booklet available on Councils website) is to be provided to the Principal Certifying Authority.

**Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls.**

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
- (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)

22. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

23. **Tree Retention**

In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Proposal Plans shall be retained except where Council's prior written consent has been obtained. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

**Reason:** To ensure the retention of the Urban Forest/Natural Environment.

24. **No Planting Environmental Weeds**

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

**Reason:** Weed management.

25. **Dead or Injured Wildlife**

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

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

26. **Landscape Maintenance**

The additional screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies, is destroyed or removed.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

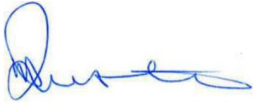
27. **Finished Works**

The finished works are to be contained wholly within the property boundaries of 20 York Terrace, Bilgola Plateau.

Reason: to ensure there is no impact upon neighbouring properties.

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

**Signed**



**Megan Surtees, Planner**

The application is determined on 20/08/2019, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**