

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0227
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 7 DP 21934, 12 Goodwin Road NEWPORT NSW 2106
Proposed Development:	Construction of a swimming pool and associated works
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Anthony Robert May
Applicant:	Landscape Design By Jacqui Ray

Application Lodged:	10/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/03/2020 to 03/04/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 43,800.00
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PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for the construction of a new swimming pool and associated works. The proposed works include:

- Construction of a new swimming pool
- New tiled and timber deck
- New low retaining wall
- Associated fencing
- Associated landscaping

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 - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 7 DP 21934 , 12 Goodwin Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Goodwin Road.</p> <p>The site is regular in shape with a frontage of 18.29m along Goodwin Road and a depth of 39.73m. The site has a surveyed area of 720.8m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two storey weatherboard dwelling house located centrally, with a detached single garage carport located within the rear yard. Vehicular access is obtained by a right of carriage way to the rear of the property which provides access off Wallumata Road.</p> <p>The site has a fall of approximately 11.5m from the western (rear) to the eastern (front) boundary.</p> <p>The site multiple canopy trees within the front yard with the rear yard predominately consisting of shrubs and turf.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by low density residential dwellings within a landscaped setting.

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.

APPLICATION HISTORY

14 April 2020

A request for withdrawal/information was sent to the applicant raising concern with:

- Side building line non-compliance
- Landscaped area non-compliance
- Insufficient information

05 May 2020

Amended Plans received addressing these concerns.

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 Matters for Consideration'	Comments
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 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans and updated geotechnical report.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 4.15 Matters for Consideration'	Comments
	(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Mr James Mangleson Mrs Stephanie Anne Mangleson	14 Goodwin Road NEWPORT NSW 2106

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

- Swimming pool non-compliance with side and rear building line control

Comment

A submission was received concerning the non-compliant side and rear setback of the proposed pool and the lack of proposed vegetation between the built form and these boundaries. Following this submission, amended plans have been received which propose the pool coping to be set off the northern boundary by 1.0m and the provision of landscaping along these boundaries. It is recognised that the proposed pool does not comply with the minimum setback prescribed in relation to the rear building line, however, as discussed within clause D10.8 of P21DCP, the siting of the pool with respect to the rear setback control is considered acceptable. It is considered the location of the pool is appropriate for the context of the site.

- Impact to privacy

Comment

A submission was received concerning the potential of the proposed pool to create privacy impacts to the adjoining neighbour to the north. It is considered that the 1.0m landscape buffer and the 1.8m fence on the northern boundary would provide adequate privacy measures to protect the neighbouring site from direct overlooking and would ultimately maintain a reasonable level of privacy. Concern was also raised that the adjoining property to the north has a recent approval for a raised carport adjoining the pool which would create additional privacy impacts. Given the functionality of a carport as a non habitable space, it is not considered that this would result in unreasonable privacy impacts to the subject or neighbouring property.

- Swimming pool safety

Comment

A submission was received concerning swimming pool fencing and safety for the subject and neighbouring property. Particular concern was raised in regards to the reliance on the existing northern boundary fence for pool compliance and concerns this would not meet the required standards. A condition is to be imposed on any consent ensuring that the swimming pool shall not be filled with water nor be permitted to retain water until 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.

The 1.0m buffer between the northern boundary and the pool coping ensures there is adequate space to install compliant pool fencing if the existing boundary fence is unable to meet the required safety standards.

- Acoustic Impacts

Comment

A submission was received concerned with the acoustic impacts of the proposed pool filter to adjoining neighbours. A condition is to be imposed to ensure the pool filter is to be acoustically treated so that it does not emit any noise above 5dB(A) above background noise at the nearest residential receiver.

- Landscaped area

Comment

A submission was received concerning the proposed developments non-compliance with the minimum landscaped area requirement and the inaccuracy of the submitted calculation of landscaped area. Following this submission, amended plans have been received which increase the proposed landscaped area and provide updated calculations. It is recognised that the proposal does not comply with the minimum landscaped area requirements, however, as discussed within clause D10.13 of P21DCP, it is considered that the proposed development is consistent with the objectives of this control.

- Construction condition for right of way

Comment

A submission was received concerned with damage and access to the right of way during construction from trade vehicles and machinery. A condition is to be imposed on any consent that no construction or trade vehicles / machinery greater than 3 tonnes in weight are to use the Right of Way at any point during the demolition or construction of the development. In addition, imposed conditions will ensure that a dilapidation survey is carried out to examine the conditions of the subject site and areas on adjoining properties (including the right of way) within 5.0m of the proposed works prior to construction and after the works have been completed. This dilapidation report will detect potential impacts caused by the proposed works. Furthermore, a condition is to be imposed to ensure that any damage to the right of way, caused by the construction of the development, is to be repaired prior to the issue of the occupation certificate.

- Plan inconsistencies

Comment

A submission was received concerning inconsistencies with the plans in relation to inaccurate or inadequate detail. Following this submission, amended plans have been received which resolve these inconsistencies.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for the installation of a pre-fabricated swimming pool, a timber deck and landscaped surrounds to the rear yard including a timber deck and retaining walling.</p> <p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing trees and vegetation, and the completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D10 Newport Locality</p> <p>Within the rear yard, no significant native trees 5 metres and over in height exist that require Council approval for removal. The development proposal indicates the pruning of the existing large Frangipani tree. Removal of the existing shrub hedge along the rear boundary, and removal of the existing Exempt palms is permitted.</p> <p>Under DCP control B4.22, A <i>"significant tree"</i> is a tree that is over 5.0m in height and, that impacts on the streetscape by virtue of its size, appearance, type, age, condition and heritage/cultural significance. It includes hollow-bearing trees and/or trees of conservation significance or habitat value.</p> <p>No Arboricultural Impact Assessment report is required for this application, which results in no impact to existing trees that are protected trees under B4.22. Conditions of consent shall be imposed</p>

Internal Referral Body	Comments
	<p>to ensure the protection of existing trees and vegetation nominated for retention.</p> <p>A Landscape Plan is submitted with the development application satisfying the DA Lodgement Requirements and completion of the landscape proposal is subject to conditions to ensure the landscape controls of the DCP are satisfied.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following biodiversity planning controls - Pittwater LEP 2014 cl.7.6 Biodiversity and P21 DCP cl B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor. The development will not require removal of trees and is located within an existing landscaped area. The works are generally proposed on parts of the site identified as not containing a wildlife corridor and does not impact on bushland on the site or adjoining properties. The development is designed, sited and will be managed to avoid any significant adverse environmental impact</p>
NECC (Development Engineering)	<p>The development/site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achievable in accordance with the geotechnical report. No Development Engineering objection subject to conditions.</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

The proposed development would be less than \$50,000 and would for the purpose of a swimming pool

that has a capacity of less than 40,000 litres. Therefore a BASIX Certificate is not required in this instance.

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	2.5m (Pool fence)	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	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes

Clause	Compliance with Requirements
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
Front building line	6.5m	No Change	N/A	Yes
Rear building line	6.5m	1.1m (Retaining wall/pool coping)	83.1%	No
Side building line	2.5m (south)	6.2m (deck)	N/A	Yes
	1m (north)	0.3m (retaining wall and pool filter box)	70%	No
Building envelope	3.5m (south)	Within envelope	N/A	Yes
	3.5m (north)	Within envelope	N/A	Yes
Landscaped area	60% (432.48sqm)	40.6% (293.8sqm) 52.3% With variation (377sqm)	32.4%	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
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.5 Construction and Demolition - Works in the Public Domain	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	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

D10.8 Side and rear building line (excluding Newport Commercial Centre)

Description of non-compliance

Clause D10.8 of the Pittwater 21 DCP requires development be setback at least 6.5m from the rear boundary and 1.0m from northern side boundary.

The development proposes the following:

Northern side setback- 0.3m (up to 70% variation) for the retaining wall and pool filter box

Rear setback - 1.1m (up to 83.1% variation) for the retaining wall and pool coping

It should be noted that Clause D10.8 allows swimming pools and their associated coping/decking to be set back 1.0m from side and rear boundaries upon achieving the objectives of the control.

Merit consideration

With regard to the consideration of a variation, the proposed development is assessed against the underlying outcomes of the control as follows:

To achieve the desired future character of the Locality.

Comment:

The proposed development is consistent with the desired character statement of the Newport locality.

The bulk and scale of the built form is minimised.

Comment:

The non-compliances relate to structures well below the fence line which are of minimal bulk and scale. The built form of the proposal is further softened through proposed landscaping.

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

Comment:

Views to and from public places will not adversely be impacted by the proposal.

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

Comment:

As noted above, the proposal will allow for reasonable view sharing.

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

Comment:

The proposal would not result in any unreasonable privacy, amenity or solar access issues. Existing and proposed boundary fencing and hedging vegetation provide adequate screening of the swimming pool and deck area.

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

Comment:

The development does not require the removal of significant vegetation. The proposed landscaping is considered appropriate and would minimise the built form. Council's Landscape Officer has reviewed the proposal and raised no objection subject to conditions.

Flexibility in the siting of buildings and access.

Comment:

No unreasonable amenity impacts are considered likely to arise for the occupants of the dwelling or those of adjoining and surrounding properties. The siting is therefore considered appropriate.

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

Comment:

The development does not require the removal of significant vegetation. The existing and proposed

landscape treatments on site are sufficient and ensure the site is not dominated by the built form.

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

Comment:

The site does not adjoin commercial development.

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.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The control requires a minimum of 60% (432.48m²) of the site area to be landscaped. The site measures 720.8m²

The application proposes a total landscaped area of 40.6% (293.8m²), representing a variation of 32.4%.

Provided the outcomes of this control are achieved, impervious areas less than 1 metre in width and impervious areas used for outdoor recreational purposes (only up to 6% of site area) can be included in the landscaped area calculation. The inclusion of this variation to the landscaped area increases the calculation to 377m², 52.3% of site area.

Merit consideration

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

Achieve the desired future character of the Locality.

Comment

The proposed development is consistent with the desired future character of the Newport locality.

The bulk and scale of the built form is minimised.

Comment

The bulk and scale of the structure is minimised as the proposal complies with the height and building envelope. The built form is further softened through the retention and provision of vegetation on and around the site.

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

Comment

A reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings.

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

Comment

The development does not require the removal of significant vegetation. The existing and proposed

landscape treatments on site are sufficient and ensure the site is not dominated by the built form.

Conservation of natural vegetation and biodiversity.

Comment

No native vegetation or wildlife species will adversely be affected by the proposed works.

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

Comment

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections subject to conditions included in the recommendation of this report. It is considered the site contains a reasonable amount of pervious surface which will contribute to the prevention of soil erosion and siltation of natural drainage channels.

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

Comment

The bushland character of the area will be maintained as no significant vegetation is required to be removed as a result of the proposed development.

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

Comment

Sufficient pervious surfacing is provided on-site which will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

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 DA2020/0227 for Construction of a swimming pool and associated works on land at Lot 7 DP 21934, 12 Goodwin Road, NEWPORT, 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
Drawing No.1 Rev.E (Site Plan)	28/04/2020	Landscape Designs by Jacqui Ray
Drawing No.2 Rev.E (Elevations and Sections)	28/04/2020	Landscape Designs by Jacqui Ray

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment Report	31st March 2020	Ascent Geotechnical Consulting

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	24/02/2020	Jacqui Ray

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

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

2. **Prescribed Conditions**

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

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

that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not

commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

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 Consultant dated 31st March, 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.

6. 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.

7. Sydney Water "Tap In"

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. Pre-Construction Dilapidation Report of areas within 5.0m of work

A dilapidation report must be prepared for all areas on adjoining properties (include the right of carriageway) within 5.0m of any proposed works. The report must be sufficiently detailed to determine the state of these areas on adjoining properties prior to construction, in order to identify any damage caused by the construction of the development.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or

affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. 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.

10. Use of Right of Way for Construction Vehicles

No construction or trade vehicles / machinery greater than 3 tonnes in weight are to use the Right of Way at any point during the demolition or construction of the development.

Reason: Protection of property.

11. Right of Way Access

Access for the right of way is to be reasonably maintained at all times.

Reason: To minimise impacts to nearby properties and residents.

12. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as identified on the Site Plan 1 of 2, revision E, submitted by Landscape Design by Jacqui Ray, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt 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 generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a qualified AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by a qualified AQF minimum Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by a qualified AQF minimum Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, 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,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified AQF minimum Level 5 Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a qualified AQF minimum Level 5 Arborist on site,

viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a qualified AQF minimum Level 5 Arborist, including advice on root protection measures,
 ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a qualified AQF minimum Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 x) 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 AS 4970-2009,
 xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees within the site under a)i are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

Note: no other existing vegetation is approved for removal. Any subsequent request for tree or vegetation removal is subject to a Section 4.55 modification application, excluding exempt vegetation under the relevant planning instruments of legislation.

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

13. **Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plans 1 of 2 and 2 of 2, revision E, submitted by Landscape Design by Jacqui Ray, inclusive of the following additional requirements:

- i) the proposed shrub planting of Rhipiolepis along the rear boundary is to be replaced with a non seed invasive species, and planted at a minimum 300mm pot size container,
- ii) all other planting shall be in accordance with the Landscape Plans.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the Landscape Plans and any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

14. **Acoustic Treatment**

The pool filter is to be acoustically treated so that it does not emit any noise louder than 5dB (A) above background noise at the nearest residential receiver. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the acoustic amenity of the neighbouring residents.

15. **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.

16. **Damage to the right of way**

Any damage to the right of way, caused by the construction of the development, is to be repaired prior to the issue of the occupation certificate.

Reason: To ensure the site is left in an acceptable state and that access is maintained for No 14 Goodwin Road.

17. **Post-Construction Dilapidation Report**

The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties

Reason: To ensure security against possible damage to Council and private property.

18. **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)

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

19. Landscape maintenance

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All tree and vegetation planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

20. Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

21. 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.

22. Works to cease if item found

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

Reason: To protect Aboriginal Heritage.

23. 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.

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

Signed



Gareth David, Planner

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



Steven Findlay, Manager Development Assessments