

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1504
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 241 DP 16362, 325 Whale Beach Road PALM BEACH NSW 2108 Lot 242 DP 16362, 325 Whale Beach Road PALM BEACH NSW 2108
Proposed Development:	Construction of a swimming pool and deck and associated landscaping works including landfill and retaining walls
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Christine Marie Blampied
Applicant:	Katie Budd

Application Lodged:	20/12/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	23/01/2020 to 06/02/2020
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 368,500.00
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PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for:

- The construction of a new swimming pool and associated fencing
- New pool deck area and associated privacy screen/pool fence
- Affiliated retaining walls and landscaping works in the rear garden
- Landfill within the rear garden a maximum height of 1.4m to create a more level turf area.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D12.13 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	<p>Lot 241 DP 16362 , 325 Whale Beach Road PALM BEACH NSW 2108</p> <p>Lot 242 DP 16362 , 325 Whale Beach Road PALM BEACH NSW 2108</p>
Detailed Site Description:	<p>The subject site consists of two (2) allotments located on the eastern side of Whale Beach Road.</p> <p>The site is irregular in shape with a total frontage (of both lots) of 23.98m along Whale Beach Road and a depth of 53.89m along the northern boundary and 67.93m along the southern boundary. The site has a surveyed area of 1577m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey dwelling house.</p> <p>The site slopes down from Whale Beach Road frontage RL35.5 (western) boundary and to the rear (RL24.5) (eastern boundary) with a fall in level of approximately 11.0m from the street frontage to the cliff top.</p>

The site consists of a high level of vegetation and tree plating within the front and southern side setback and incorporates a large lawn area at the rear.

Detailed Description of Adjoining/Surrounding Development

The site is adjoined by a densely vegetated Council Reserve to the south and a foreshore reserve to the east. Surrounding development is characterised by one (1) and two (2) storey residential dwelling houses of varying architectural styles.

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

10 March 2020

Council wrote to the applicant, raising concerns relating to:

- Side boundary setback non-compliance
- Design of the proposed pool and deck
- Transplanting methodology of the existing Cabbage Tree Palm
- Location of proposed sleeper path

25 March 2020

Amended plans and additional information received to support the application

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&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 proposed elevation plans.</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 clause is not relevant to this application.</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</p> <p>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>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is 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 2 submission/s from:

Name:	Address:
Doyle Consulting Group	3A Kendall Road CASTLE COVE NSW 2069
Shannon Therese Gregory	319 Whale Beach Road PALM BEACH NSW 2108

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

- View loss

Comment

Submissions have been received from and on behalf of the owner of a surrounding property, raising concerns regarding impacts to views from the proposed privacy screen/pool fence on the southern boundary. Following this submission, amended plans have been received which sees a reduction in the scale of the privacy screen/pool fence; the movement of the privacy screen/pool fence 1.0m off the

southern boundary and the removal of the portion of the privacy screen/pool fence which had the greatest height (eastern portion). The amended design of the proposed privacy screen/pool fence is not considered to result in any unreasonable view loss to the adjoining neighbour. See further discussion with regard to clause C1.3 of P21DCP.

- Inappropriate height and location of privacy screen on the boundary

Comment

A submission was raised concerning the inappropriate height and location of the proposed privacy screen/pool fence directly on the southern boundary. Following this submission, amended plans have been received which sees a reduction in the scale of the privacy screen/pool fence and the removal of the portion of the privacy screen/pool fence which had the greatest height (eastern portion).

Furthermore, these amendments situate the proposed privacy screen/pool fence off the southern boundary by 1.0m. The amended design of the proposed privacy screen/pool fence is not considered to result in any unreasonable amenity impacts to adjoining neighbours.

- Inappropriate location of the pool

Comment

A submission was raised concerning the inappropriate location of the pool on the southern boundary. The proposed pool would be set off the southern boundary by 1.0m which complies with the requirements of D9.7 (side building line) P21DCP. Furthermore, as the property adjoins a council reserve to the south, there would be a 14.0m separation between the proposed pool and the southern neighbour. The proposed pool would also have similar setbacks to the existing pool of the neighbour to the south. 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 D9.7 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.

- Visual impact upon public reserve

Comment

A submission was raised concerning the potential of the proposal to create a visual impact to the adjoining public reserve. Council's Parks and Reserves Asset Planning Officer has carried out an assessment and has raised no objection to the proposal. It should also be noted that the public reserve to the south of the site, adjoining the proposed pool and deck, is densely vegetated and not readily accessible to the public.

- Impact to privacy

Comment

A submission was raised concerning the potential of the proposed pool and deck to create amenity impact by reason of privacy to the adjoining neighbour to the south. The proposal incorporates a privacy screen on the southern elevation of the deck and there would be a 14.0m separation (through a densely vegetated reserve) between the proposal and the southern neighbour. It is therefore considered that the proposal would not result in any unreasonable impacts to privacy.

- Noise concerns

Comment

A submission was raised concerning the potential of the proposed pool and deck to create amenity impact by reason of noise to the adjoining neighbour to the south. As the proposal is 14.0m away from the adjoining neighbour to the south, it is considered that the proposal would not result in any unreasonable impacts by way of noise. A condition has been imposed to ensure the pool filter is to be acoustically treated so that it does not emit any noise of 5dB(A) above background noise at the nearest residential receiver.

- Impact upon the character of the Pittwater and Palm Beach Area

Comment

A submission was raised regarding the impact of the proposal to the character of the area. The proposal is located within the rear garden and would not be visible from the street. Furthermore, the adjoining reserve to the south of the site is densely vegetated and not readily accessible to the public. There are several examples of pools within the rear gardens of surrounding properties.

- Impact upon land within a coastal environment area

Comment

The application was referred to the Council's Coast and Catchments Officer who was satisfied that the proposal complies with *Coastal Management Act 2016*, State Environmental Planning Policy (Coastal Management) 2018 and the requirements of the Pittwater LEP 2014 and Pittwater 21 DCP. It is therefore considered that the proposal would not result in any unreasonable impacts to the coastal environment area.

- Nil setback along boundary offers no opportunity for vegetation between the built form and the boundary

Comment

A submission was raised concerning the nil setback of the deck on the southern boundary and the lack of proposed vegetation between the built form and the boundary. Following this submission, amended plans have been received which propose the deck to be set off the southern boundary by 1.0m and the provision of landscaping along this boundary.

- Request for condition to limit the height of landscape elements planted

Comment

A submission was raised concerning the height of the proposed landscaping to the east of the proposed pool and the potential for impact upon existing views. Council's Landscape Officer has imposed a condition to ensure that new planting as part of this application around the pool on the foreshore side (east and north) shall be maintained at a height no higher than the pool terrace/copping level, excluding the relocated Cabbage Tree Palm

- Request for conditions to ensure the accurate location of the pool and proposed works

Comment

A submission was raised requesting that the location of the proposed pool is to be set out by a registered surveyor to confirm that the easternmost wall of the proposed pool would not exceed what was on the plans submitted. It was also requested a condition be imposed to ensure there were no works within 1.0m of the southern boundary. This condition was requested due to the height of the easternmost part of the privacy screen/pool fence and concerns this would be set further east and restrict views. Amended plans have been received which remove this portion of the privacy screen/pool fence which was of concern and set the proposed works 1.0m away from the southern boundary. The addition of such a condition is not deemed necessary as the works must be built in accordance with the approved stamped plans. A condition has been imposed ensuring the location of the proposed privacy screen/pool fence does not extend beyond what is approved.

- Concerns the property will be used as a de facto hotel

Comment

A submission was raised concerning the potential use of the property as a de facto hotel and for short term rental accommodation. The proposal does not propose to change the use or classification of the building. Concerns regarding unauthorised building use should be referred to Council's Compliance department.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposed development is for landscape works and a new swimming pool to an existing dwelling.</p> <p>Council's Landscape Referral of the development application is assessed against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D12 Palm Beach Locality</p> <p>Amended landscape plans have been submitted addressing concerns previously raised and these plans now remove the landscape issues from the application, including:</p> <ul style="list-style-type: none"> • encroachment onto public land by way of a sleeper path is removed, • planting is now proposed along the pool vertical wall to ensure that the visual impact is reduced, • clarification on the transplanting methodology for relocation of the Cabbage Tree Palm is provided. <p>The proposed pool will impact upon one existing tree (T05 - Paperbark) of high retention value and as recommended in the Arboricultural Impact Appraisal, tree protection measures shall be applied to protect this tree. The proposal retains all significant trees* within the site, and in association with new planting works as documented on the landscape plans, the proposal satisfies the landscape controls of Pittwater 21 DCP.</p>

Internal Referral Body	Comments
	<p>Two existing small Cabbage Tree Palms (T02 and T03) are required to be removed for the proposed works.</p> <p>One Cabbage Tree Palm (T04) is proposed for transplanting within the site in a similar location, and the Transplant Method Statement describes the required works to undertake relocation successfully.</p> <p>The proposed planting as shown on the landscape plans, upon public land, is not permitted.</p> <p>The landscape component of the development application is acceptable subject to conditions for the protection of existing trees and vegetation, and subject to conditions for the completion of landscaping.</p> <p><i>* Under DCP control B4.22, A “significant tree” 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.</i></p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following relevant provisions:</p> <ul style="list-style-type: none"> - Pittwater LEP Clause 7.6 - Biodiversity Protection - Pittwater DCP Clause B4.17 - Littoral Rainforest - SEPP (Coastal Management) - Coastal Environment Area <p>The proposal is generally within the existing modified footprint, with two exempt Cabbage Tree Palms (<3m) to be removed and one protected (>3m) Cabbage Tree Palm to be relocated. Subject to implementation of tree protection measures as outlined in the submitted arborist report, it is considered that the proposal complies with the controls.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone, SEPP (Coastal Management) 2018 is applicable to the proposed development.</p>

Internal Referral Body	Comments
	<p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). The site has also been included in Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014, hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment: As assessed in the submitted Statement of Environmental Effects (SEE), Council accepts the assessment. The DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>The subject site is shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP applies to the site.</p> <p>Coastline Bluff Hazard Management Engineering reports by Horton Engineering, 11 November 2019 and White Engineering, 4 December 2019 assessing coastline (bluff)/coastal cliff and slope instability has been submitted with the DA. An impact assessment of the long term coastal processes on the coastline (bluff)/coastal cliff or slope instability has been appended with the Geotechnical Report. The report assessed that the proposed development is suitable for the site on the conditions the development is carried out in accordance with the requirements of the report and good engineering and building practice.</p> <p>As such, it is considered that the application does comply, subject to conditions, with the requirements of the relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	The submitted Geotechnical report addresses the relevant DCP controls and certifies that an acceptable risk is achievable for the development. No development engineering objection subject to conditions.
Parks, reserves, beaches, foreshore	<p>The proposed development site abuts Little Head reserve on it's eastern and southern boundaries. Little Head Reserve is zoned as E2 - Environmental Conservation.</p> <p>The current proposal indicates that landscaped stairs in the backyard are to encroach upon the E2 zoned public reserve. Development of this nature in the E2 zone is not permitted under the Pittwater LEP.</p>

Internal Referral Body	Comments
	<p>These steps will need to be redesigned prior to commencement, to ensure that they are located solely within the subject property.</p> <p>The topography of the site falls to the east, so sedimentation control has been conditioned to protect the surrounding Environmental Conservation area from potential erosion as a result of development on the site.</p> <p>No other issues with the proposal.</p>
Property Management and Commercial	<p>This is an application for construction of a swimming pool.</p> <p>Property has no objections to the proposal as submitted.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. 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

A BASIX certificate has been submitted with the application (see Certificate No.A364351 issued 03 December 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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed works do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

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

Comment:

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate

- (c) that impact, and
has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal does not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not considered to be adversely effected and the surrounding area consists of examples of similar developments.

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. A condition of consent has been placed to stop works and report the findings to the AHO if any Aboriginal Engravings or Relics are unearthed

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

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

Comment:

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

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

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	3.0m (top of privacy screen/pool fence)	N/A	Yes

Compliance Assessment

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

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for a swimming pool and an associated retaining wall and landscaping works which would include landfill up to a height of 1.4m above existing ground level.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land*

- will be maintained, and*
- in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the E4 - Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- continuous public access to and along the foreshore through or adjacent to the proposed development,*
- public access to link with existing or proposed open space,*
- public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- public access to be located above mean high water mark,*
- the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed pool is acceptable in relation to the foreshore character and the existing environmental conditions. However, it is considered that the proposed landfill and retaining wall with a height of up to 1.4m is excessive within the foreshore area. This level of fill would conceal the topographic features the foreshore area and thus, is not considered to reinforce the foreshore character or respect the existing environmental conditions and natural land-formation of the site. A condition is to be imposed to ensure that the level of fill and associated retaining wall not exceed a maximum height of 600mm above existing ground level within the foreshore area, in order to maintain the topographical character of the site and foreshore area. Subject to this condition the proposal is considered acceptable.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Unchanged	N/A	Yes
Rear building line	6.5m	0.9m (North-east corner of pool)	86.2%	No

		0.9m (Northern section of retaining wall)		
Side building line	2.5m (North)	20.6m (Pool) 0m(New retaining wall)	N/A 100%	Yes No
	1.0m (South)	1.0m (Pool and Deck)	N/A	Yes
Building envelope	3.5m (North)	Within envelope	N/A	Yes
	3.5m (South)	Within envelope	N/A	Yes
Landscaped area	60% (946.2sqm)	50.2% (792.5sqm) 57% With variation (897.7sqm)	16.4%	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
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.4 Coastline (Bluff) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve		
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Merit consideration

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North

Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The view from 319 Whale Beach Road that are the concern are to the north of the property and include views of the ocean. The view is through a council reserve and is predominately obstructed by vegetation.



Figure 1: View from ground floor internal living area of 319 Whale Beach Road facing North

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

The view of the ocean which is of concern is obtained from both a sitting and standing position and are over the northern side boundary.

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the

property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Principle 3:

The proposal would have an impact on views from a ground floor living area and a ground floor deck towards the rear of 319 Whale Beach Road. Given the design and layout of 319 Whale Beach Road, ocean views including the interface between land and water are obtained from the majority of the internal and external principle live areas over the front (eastern) and northern side boundary. The impact of the proposal from the living room would affect a small portion of water views which is already partially obstructed by existing vegetation from the adjoining council reserve. The extent of the proposal on available views is ranked as minor.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The proposed deck, pool and privacy screen/pool fence would comply with the relevant height, side boundary and building envelope controls. The privacy screen/pool fence which is of concern would also comply with the rear building line requirement. Given that the impact is considered minor and that the view loss does not arise as a result of non-compliance, the view sharing outcome is assessed as reasonable.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

The adjoining reserve to the south of the site is densely vegetated and not readily accessible to the public. Hence, the proposal is not considered to have an impact to the public.

- *Canopy trees take priority over views.*

Comment:

No significant trees or vegetation would be removed to facilitate the development and the existing Cabbage Tree Palm affected by the proposal would be relocated on the site.

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, in this particular circumstance.

D12.6 Side and rear building line

Description of non-compliance

Clause D12.6 of the Pittwater 21 DCP requires development be setback at least 6.5m from the rear boundary and 2.5m from northern side boundary.

The development proposes the following:

Northern side setback- Nil (up to 100% variation) for the proposed retaining wall and landscaping works

Rear setback - 0.9m (up to 86.2% variation) for the north-east corner of pool and the northern section of the retaining wall.

Merit Consideration

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

To achieve the desired future character of the Locality.

Comment:

The proposal is located within the rear garden and would not be visible from the street. Given that the adjoining reserve to the south of the site is densely vegetated and not readily accessible to the public, it is considered that the proposal would not impact upon the character of this reserve. There are several examples of pools within the rear gardens of surrounding properties with reduced rear setbacks. It is considered that the proposed landfill and retaining wall with a height of up to 1.4m is excessive, particularly within a foreshore area. This level of fill would conceal the topographic features the site and foreshore area. Thus, it is considered that this would not respond sensitively to natural topography of the land, and would not achieve the desired future character of the locality or foreshore area.

A condition is to be imposed to ensure that the level of fill and associated retaining wall not exceed a maximum height of 600mm above existing ground level within the foreshore area, in order to maintain the topographical character of the site and foreshore area. Subject to this condition the proposal is considered acceptable.

To bulk and scale of the built form is minimised.

Comment:

The proposed pool complies with the side setback, height and building envelope controls and would be surrounded by landscaping which would soften it's bulk and scale. The proposed retaining wall would be 1.8m at its highest point and responds to the topography of the land, which slopes down to the east. It is considered that the proposed pool and retaining wall would not appear excessive in bulk when viewed from adjoining properties.

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

Comment:

This matter has been addressed elsewhere within the report (refer to Clause C1.3 View Sharing under P21DCP). In summary, the proposal is considered to equitably preserve the available views and vistas

to and/or from public and private places.

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

Comment:

As noted above, no views are to be unreasonably compromise by the proposed works.

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

Comment:

The proposed development will not result in any unreasonable visual privacy or overshadowing impacts to neighbouring properties.

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

Comment:

Despite the loss of landscaped open space, the proposed development will allow for substantive landscaping across the site. Council's Landscape Officer has reviewed the proposal and raised no objection subject to conditions.

Flexibility in the siting of buildings and access.

Comment:

Given the extended rear boundary to the south of the site as well as the location of the densely vegetated Council reserve adjoining this, it is considered that the proposed development is adequately sited to ensure a reasonable level of amenity and a reasonable visual presentation for the subject site and adjacent sites.

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

Comment:

The proposed development includes adequate vegetation and landscaping to soften and visually reduce the built form.

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

Comment:

The proposed development does not adjoin a commercial zone.

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

D12.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The control requires a minimum of 60% (946.2m²) of the site area to be landscaped. The site measures 1577m²

The application proposes a total landscaped area of 50.2% (792.5m²), representing a variation of 16.4%..

Provided the outcomes of this control are achieved, impervious areas less than 1 metre in width and impervious landscape treatments providing these areas are 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 897.7m², 57% 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 proposal contains a sufficient portion of landscaped area and vegetation within the subject site which assists in screening the built form. Therefore the proposal is considered to achieve the desired future character of the locality.

The bulk and scale of the built form is minimised.

Comment:

As stated above, the landscape plan details new and existing trees and vegetation to assist in reducing the perceived bulk and scale of the development from the public domain and adjacent properties.

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

Comment:

The development has been designed and sited appropriately so to ensure no unreasonable amenity impacts arise for the occupants of the subject site or those of adjoining and surrounding properties.

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

Comment:

No significant trees or vegetation would be removed to facilitate the development and the existing Cabbage Tree Palm affected by the proposal would be relocated on the site. The landscape plan shows a suitable mix of planting that will enhance the site and visually reduce the built form.

Conservation of natural vegetation and biodiversity.

Comment:

The proposal involves the planting of a variety of vegetation species throughout the site which will assist in biodiversity conservation on the site.

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.

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

Comment:

Council's Bushland and Biodiversity Officer has assessed the proposal and has raised no objection to the impact on the bushland character of the site and locality subject to the condition that landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants.

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

Comment:

The site will retain sufficient soft surface areas to assist with stormwater infiltration and management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.13 Construction, Retaining walls, terracing and undercroft areas

It is considered that the proposed landfill and retaining wall with a height of up to 1.4m is excessive, particularly within a foreshore area. This level of fill would conceal the topographic features the site and foreshore area. Thus, it is considered that this would not respond sensitively to natural topography of the land, and not be inline with the outcomes of this Clause.

A condition is to be imposed to ensure that the level of fill and associated retaining wall not exceed a maximum height of 600mm above existing ground level within the foreshore area, in order to maintain the topographical character of the site and foreshore area. Subject to this condition the proposal is considered acceptable.

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

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

A monetary contribution of \$3,685 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$368,500.

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 DA2019/1504 for Construction of a swimming pool and deck and associated landscaping works including landfill and retaining walls on land at Lot 241 DP 16362, 325 Whale Beach Road, PALM BEACH, Lot 242 DP 16362, 325 Whale Beach Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
SE01 Rev. D (Sections and Elevations)	18/03/2020	Landart Landscapes

SE02 Rev. B (Sections and Elevations)	18/03/2020	Landart Landscapes
SE03 Rev. A (Sections and Elevations)	20/03/2020	Landart Landscapes
LMP01 Rev. D (Landscape Master Plan)	18/03/2020	Landart Landscapes

Engineering Plans		
Drawing No.	Dated	Prepared By
ESC01 Rev.A (Erosion and Sediment Control Plan)	19/11/2019	Landart Landscapes

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report (Ref J2412)	09/12/2019	White Geotechnical Group
Geotechnical Report (Ref J2412B)	20/03/2020	White Geotechnical Group
BASIX Certificate (Ref A364351)	03/12/2019	Landart Landscapes
Arboricultural Impact Appraisal and Method Statement	19/12/2019	Naturally Trees
Transplant Method Statement	20/03/2020	Naturally Trees
Coastal Engineering Report	11/11/2019	Horton Coastal Engineering

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LPP 01 Rev.E (Landscape Planting Plan)	24/03/2020	Landart Landscapes

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	Received 11/01/2020	-

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

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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.

4. **Timber fence/privacy screen location**

No part of the 1.8m tall angled timber fence/privacy screen is to extend beyond a point 16.0m from the south-easternmost corner of the rear boundary of the subject site.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,685.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$368,500.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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

7. **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 Reports prepared by White geotechnical group dated 4 December, 2019 and 20 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.

8. **Amendments to the approved plans**

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

- The landfill and retaining wall located within the foreshore area shall be reduced to a maximum height of 600mm above existing ground level.

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

Reason: To ensure development in the foreshore area will not affect the significance and amenity of the area

9. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: To provide public and private safety.

10. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until

all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

11. **Tree Protection Measures to Be Implemented**

All pre-construction tree protection measures outlined in the submitted arboricultural report are to be implemented at the appropriate stage of development, unless modified by these conditions of consent in which case the conditions of consent will prevail. Compliance with this condition is to be certified by the Project Arborist prior to issue of the Construction Certificate.

Reason: To protect local native canopy trees in accordance with relevant Natural Environment controls.

12. **Coastal Bluff Engineering Assessment Implementation**

The advice and recommendations contained in the approved Coastal Engineering Assessment report prepared by Horton Coastal Engineering, 11 Nov 2019, must be addressed as necessary through the Geotechnical Risk Management Report prepared in support of the development application and must be incorporated as required into construction plans and structural specifications for the development.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

13. **Coastal Bluff Engineering Assessment Implementation**

All development or activities must be designed and constructed such that they will not increase the level of risk from coastal processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect coastal processes; they will not be adversely affected by coastal processes.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

14. **New Landscaping**

Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Gardening Booklet or Tree Guide available on Council's website. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

15. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Tree protection measures**

A qualified AQF Level 5 Project Arborist shall be engaged prior to the commencement of works to supervise and approve tree protection measures in accordance with the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees Consulting, and any other condition of consent as follows:

- general protection measures within the tree protection zone of all existing trees and vegetation to be retained and protected under section 4 and Appendix of the Arboricultural Impact Appraisal and Method Statement,
- protection fencing in accordance with Appendix 4 and Appendix 8: Plan TMP01 of the Arboricultural Impact Appraisal and Method Statement,
- ground protection for existing tree 05 in accordance with Appendix 5 and Appendix 8: Plan TMP01 of the Arboricultural Impact Appraisal and Method Statement,
- attendance on site during all works within the tree protection zone of existing tree 05,
- certification issued to the Certifying Authority at hold points in accordance with Appendix 7 of the Arboricultural Impact Appraisal and Method Statement.

Certification of the above requirements including site attendance, instructions and approvals of tree protection measures shall be recorded and issued to the Certifying Authority during the works.

The Principal Certifying Authority or the Project Arborist must ensure that:

- i) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site, and
- ii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

The tree protection measures specified in this clause must:

- ii) be in place before work commences on the site, and
- iv) be maintained in good condition during the construction period, and
- v) remain in place for the duration of the construction works.

Note. A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to ensure tree protection is provided and maintained.

17. **Redesign of backyard steps**

The current design of the backyard stairs encroach onto Council owned E2 - Environmental Conservation land. The Pittwater Local Environmental Plan precludes development of this nature from occurring in an E2 zone. These stairs need to be redesigned to reside solely on the applicants land.

Reason: To ensure proposed development complies with the Local Environmental Plan.

18. **Vegetation removal within the property**

The existing two Cabbage Tree Palms, identified as T02 and T03 in the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees Consulting, and recommended for removal based on development impact, are approved for removal as part of this application.

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.

Reason: To ensure tree and vegetation protection.

19. **Installation and Maintenance of Sediment and Erosion Control**

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. **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.

21. **Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected, 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 and the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees Consulting dated 10 December 2019,
- 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 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 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.

22. **Relocation of Cabbage Tree Palm**

Transplanting of the existing Cabbage Tree Palm identified as T04 in the Arboricultural Impact Appraisal and Method Statement prepared by Naturally Trees Consulting dated 10 December 2019 and indicated on the landscape plans shall be relocated in accordance with Transplant Method Statement prepared by Naturally Trees Consulting dated 20 March 2020.

A qualified AQF Level 5 Project Arborist shall be engaged prior to the commencement of works to supervise and approve by certification to the Certifying Authority prior to Occupation Certificate that the relocation works are in accordance with the recommendations of the Transplant Method Statement.

The location of the transplanted Cabbage Tree Palm shall be in accordance with the Landscape Masterplan LMP01, issue D and Landscape Planting Plan LPP01, issue E, prepared by Landart.

Reason: ensure the appropriate relocation procedures are undertaken.

23. **Coastal Erosion**

This property is on land located in an area where there is likely to be a risk of coastal erosion and wave impact during severe storms. The risk to the property may increase with time due to long-term beach recession caused by greenhouse induced sea level rise or natural coastal processes. To reduce the potential impact to your property, the Council strongly recommends that effective precautions be taken to ensure adequate volumes of sand are maintained within the eastern (seaward) boundary of your property. The Council requires that only free-draining, clean, yellow sand be used to fill allotments.

Reason: Protection of coastal environment.

24. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

25. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network, public reserve, adjoining bushland and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

26. Arborist Recommendations to be Implemented

All during-construction tree protection measures, including relocation of Tree 4, outlined in the submitted arboricultural report are to be implemented at the appropriate stage of development, unless modified by these conditions of consent in which case the conditions of consent will prevail. Compliance with this condition is to be certified by the Project Arborist prior to issue of the Occupation Certificate.

Reason: To protect local native canopy trees in accordance with relevant Natural Environment controls.

27. Aboriginal Heritage

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

28. Landscape completion

Landscaping is to be implemented in accordance with the landscape plans consisting of Landscape Masterplan LMP01 (D); Landscape Planting Plan LPP01 (E); Sections and Elevations SE01 (D), SE02 (B), and SE03 (A), prepared by Landart, inclusive of the following requirement: i) the new planting as part of this application around the pool on the foreshore side (east and north) shall be maintained at a height no higher than the pool terrace/copping level, excluding the relocated Cabbage Tree Palm.

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.

29. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by a qualified Arborist with minimum Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained and/or relocated, as a result of the development works, including the following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

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

30. **Acoustic Treatment**

The pool filter is to be acoustically treated so that it does not emit any noise of 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.

31. **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.

32. **Landscaping**

Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Gardening Booklet or Tree Guide available on Council's website. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To achieve compliance with relevant Natural Environment LEP/DCP controls.

33. **Tree protection measures to be Certified as Complete**

Initiation/establishment of post-construction tree protection measures, including relocation of Tree 4, outlined in the submitted arboricultural report is to be certified by the Project Arborist prior to issue of the Occupation Certificate.

Reason: To protect local native canopy trees in accordance with relevant Natural Environment controls.

34. **Priority and environmental weeds**

Landscaping is not to include any Priority or environmental weeds identified in the Northern Beaches Council Local Priority Weed Management Plan. Evidence of compliance with this condition is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To manage the spread of environmental weeds in accordance with relevant Natural Environment LEP/DCP controls.

35. **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

36. **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 or for their useful natural life.

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.

37. **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.

38. **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 08/04/2020, under the delegated authority of:



Steven Findlay, Manager Development Assessments