

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0115
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Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 2 DP 1251762, 34 B Nullaburra Road NEWPORT NSW 2106
Proposed Development:	Construction of a dwelling house and swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Dragan Kalajdzic Vesna Kalajdzic
Applicant:	PCL & APR Pty Ltd T/As Icon Homes

Application Lodged:	11/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	26/02/2020 to 11/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 490,370.00
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PROPOSED DEVELOPMENT IN DETAIL

Construction of a two storey dwelling, associated landscape works and an in ground swimming pool.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the

- development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.7 Private Open Space

Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.16 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 2 DP 1251762 , 34 B Nullaburra Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject allotment is described as 34B Nullaburra Road, Newport, being Lot 2 within the Deposited Plan 1251762 and is zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014. The subject lot was formally registered with the Land Titles Office on 19 June 2020.</p> <p>The property is located on the western side of Nullaburra Road and is a slightly irregular shaped lot as a result of the approved subdivision configuration . The lot contains an access handle along the southern side of the the site providing vehicular and pedestrian access to Nullaburra Road. Located west of the site is a vacant lot known as 34 Nullaburra Road and further east is 34A Nullaburra Road fronting Nullaburra Road and contains a single storey dwelling house.</p> <p>The site has an access handle width of 4.26m and has a surveyed area of 1061.3m².</p> <p>The site is located within the E4 Environmental Living zone and is currently vacant. The site accommodates retaining walls which were approved as part of the subdivision DA (DA2018/0496). An open concrete drainage channel is</p>

located to the north of the site.

The site gently slopes approximately 3m from east to west across the majority of the site, and steeply slopes and additional approximately 4m in the southwestern corner of the site. The site contains numerous mature trees.

Adjoining and surrounding development is characterised by one-storey, two-storey, and three-storey detached dwellings

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Map:



SITE HISTORY

DA2018/0496 approved a development application for Demolition of existing structures and subdivision of one (1) lot into two (2) lots on 5 February 2019

Torrens Title Subdivision Certificate issued (SC2020/0008) on 13 May 2020.

The lot was formally registered with Land Titles Office on 19 June 2020 and is identified as No. 34B Nullaburra Rd - Lot 2 DP 1251762.

Note: DA2020/0136 is currently under assessment on Lot 1 for the construction of a two storey dwelling house and in-ground swimming pool.

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
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Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development proposes the construction of a new two storey dwelling and swimming pool on Lot 2 of the approved subdivision at 34 Nullaburra Road Newport.</p> <p>Development consent under Subdivision approval DA2018/0496</p>

Internal Referral Body	Comments
	<p>applies to the site including the retention of trees as nominated under the subdivision consent for Lot 2.</p> <p>The proposal is capable of achieving the landscape outcomes of Pittwater 21 DCP, subject to conditions to protect existing trees and vegetation, and completion of landscaping as required by an amended landscape plan.</p> <p>An amended landscape plan is required prior to Construction Certificate to satisfy the DA Lodgement Requirements, indicating existing trees to be retained, and proposed tree replacement planting and boundary planting, to achieve the landscape outcomes of Pittwater 21 DCP. No Arboricultural Impact Assessment report is provided with this development application. A Arboricultural Impact Assessment as part of Subdivision approval DA2018/0496, prepared by Hugh The Arborist, will be relied upon in terms of listing of trees to be removed and trees to be retained, with tree protection measures to be subject to conditions.</p> <p>The Site Plan for this new dwelling application, drawing number 19125-10 H2 - issue K, indicates existing trees to be retained as T8, T9, T11, and T12.</p> <p>It is noted that under Subdivision approval DA2018/0496, the Arboricultural Impact Assessment and subsequent Consent Conditions refer to the following identification numbers as trees to be retained: T6 (Swamp Mahogany), shown as T9 on the Site Plan for this application; and T7 (Cabbage Tree Palm), shown as T12 on the Site Plan for this application.</p> <p>Additionally, T11 as shown on the Site Plan for this application as retained was assessed under Subdivision approval DA2018/0496 as T8 and not retainable due to the proposed drainage easement. Under this application for a new dwelling, an Arborist shall be engaged to determine the suitability for retention or otherwise of tree T11 as shown on the Site Plan.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D10 Newport Locality</p>
NECC (Bushland and Biodiversity)	<p>The proposed dwelling is located within a lot created under a recently approved subdivision that considered the local planning controls, including PLEP cl. 7.6 Biodiversity. Based on the subdivision assessment and approval, the development is designed, sited and will be managed to avoid any significant adverse environmental impact. The site is mapped as Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor, and has been assessed against cl. 4.4 of Pittwater 21 DCP. The site is also mapped as part of the Pittwater Wagstaff Spotted Gum Forest Endangered Ecological</p>

Internal Referral Body	Comments
	Community by Sydney Metro CMA mapping, although is not mapped as such under the DCP. Based on this the landscape plan should be amended to ensure that at least 60% of any new planting incorporates native vegetation characteristic of the EEC. Landscaping is to be outside areas of existing bushland and should not include environmental weeds.
NECC (Development Engineering)	<p>The DA is reliant on registration of the subdivision with LRS and completion of subdivision works.</p> <p>It is recommended that the DA is appropriately conditioned to ensure registration of Lot 2 prior to the DA being operational.</p> <p>No Development Engineering objection subject to conditions.</p> <p><u>Planners Comment:</u> A Geotechnical Report prepared by Soilsrock Engineering, dated 3 June 2020 was submitted at Council's request on 9 June 2020. This was required by Council's Development Engineer to properly assess the development for the two dwellings and two inground swimming pools. The Geotechnical Report submitted and approved as part of the subdivision application (DA2018/0496) was for minor development associated with the subdivision. The Geotechnical Report addressing the proposed works was deemed satisfactory and forms part of the development consent.</p> <p>Confirmation of registration of the subdivision with LRS to ensure registration of Lot 2 has been received by Council. Lot 2 was registered on 19 June 2020.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The subject development application is supported by a Flood Report prepared by Kozarovski and Partners Pty Ltd. This Flood Report does not take account of the subdivision works that have been completed or the development that is proposed as part of this application. Notwithstanding following the completion of the subdivision works, the floor levels of the proposed dwelling are located above the Flood Planning Level. No flood related development controls are included.
Parks, reserves, beaches, foreshore	No issues with the proposal.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and

LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1070847S_02, 23 January 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.1m	N/A	Yes

Compliance Assessment

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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.0m	4.6%	No
Rear building line	6.5m	22.9m	N/A	Yes
Side building line	2.5m	East: 6.2m	N/A	Yes
	1m	West: 1.0m	N/A	Yes
Building envelope	3.5m	East: Within envelope	N/A	Yes
	3.5m	West: Outside envelope - 1.2m for a length of 5.7m	26.6%	No
Landscaped area	50%	67.3%	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped

area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
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	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Centre)		
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	No	Yes

Detailed Assessment

C1.7 Private Open Space

Description of Non-compliance:

A minimum of 80m² of private open space at ground level is required to be provided for a dwelling house. Currently, due to the constraints of the site such as slope there is no area of private open space that meets the definition in the Pittwater LEP. The area taken to be private open space is the alfresco area (12m²) located along the northern side of the dwelling accessed from dining /living area. The development proposes an inground swimming pool with decking which is adjacent to the alfresco area.

Merit Consideration:

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

Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S)

The dwelling is provided with private open space by the way of an alfresco area located along the northern side (rear) of the dwelling. The alfresco area and decking is located in the rear yard meaning it is concealed from street view and can be used for a number of functions. The swimming pool, while not included in the calculation for private open space is used for the enjoyment of the occupants.

Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S)

The private open space is directly accessible from living areas and with a roof over will allow this space to be used regularly by the occupants of the dwelling and will provide access to the swimming pool.

Private open space receives sufficient solar access and privacy. (En, S)

The private open space is not unreasonably affected by overshadowing.

C1.25 Plant, Equipment Boxes and Lift Over-Run

A condition is to be imposed to ensure any mechanical plant associated with the proposed swimming pool is located away from neighbouring properties boundaries and acoustically treated as to ensure the amenity of the surrounding locality is protected

D10.7 Front building line (excluding Newport Commercial Centre)

Clause D10.7 of the P21DCP requires development (other than driveways, fences and retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

The proposed development has a 5.4 metre , providing a shortfall of 1.1mm with the 6.5m requirement. This represents a 17% variation to the development control. The non-compliant portion of the development relates to the porch with the remainder of the dwelling being setback between 5.9 - 7.1m from the front boundary.

The proposed variation does not satisfy the variation clause within the section. As such, the proposed development is assessed against the underlying outcomes of the control as follows:

Achieve the desired future character of the Locality.

Comment:

The proposed development is of an configuration with the front elevation of the proposed dwelling orientated to face the driveway located along the southern side of the lot. This is not consistent with the orientation of dwellings located along the western side of Nullaburra Road which primarily have the entrance to the dwelling fronting the street. Whilst this is not a common arrangement for surrounding dwellings, the proposal will not be overly visible from the street given the location of the development on a battle-axe block. Given the constraints of the site, the dwellings location will ensure the amenity of the surrounding properties is maintained.

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

Comment:

The proposed development is set behind dwellings along Nullaburra Road well below that of properties along Goodwin Road located to the high (western) side of the subject site.

The amenity of residential development adjoining a main road is maintained.

Comment:

The site does not adjoin a main road and as such, this objective is not of relevance.

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

Comment:

The proposed works within the front setback does not necessitate the removal of vegetation as the site has been cleared for development. The existing landscaping treatments on site are sufficient to the side, front and rear of the site will ensure the site is not dominated by the built form. An amended landscape plan is required to ensure existing vegetation is protected, proposed tree replacement planting and boundary planting to achieve the landscape outcomes of Pittwater 21 DCP.

Vehicle manoeuvring in a forward direction is facilitated.

Comment:

The proposed on site parking will allow for vehicles to enter and exit the site in a forward direction. Therefore, the proposal is considered acceptable in this regard.

To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

Comment:

Despite the variation to the front setback requirement, the proposal is in keeping within the height and scale of the existing streetscape of Nullaburra Road.

To encourage attractive street frontages and improve pedestrian amenity.

Comment:

Having regard to the matters stipulated above, the proposal will not adversely impact the street frontage.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Comment:

As noted throughout this report, the proposal responds to established development within the locality.

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.

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

The dwelling is positioned as to front the driveway located along the southern side of the lot. As a result of the orientation of the proposed dwelling, the front elevation faces south and the rear of the dwelling overlooks the expansive landscaped open space area to the north.

As a result of the unusual configuration of the proposed dwelling and swimming pool, the side building lines are measured from the eastern and western side boundaries of the newly subdivided lot with the rear building line measured to the northern boundary.

As stipulated in the built form control table the eastern and western side elevations comply with the 1.0 metres and 2.5m side building line setback controls with the rear of the dwelling generously complying with the rear building line setback control.

The location of the in-ground swimming pool is technically located along the western side of the proposed development. A variation is sought for the location of the swimming pool being located 1.0 metre from the western side boundary. Given the configuration of the proposed development and site constraints afforded to the subject lot, the location of the swimming pool is considered the most appropriate location. A condition is imposed to ensure any mechanical plant associated with the swimming pool shall be located away from the boundaries and acoustically treated as to protect the amenity of neighbouring properties.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries. The proposed development encroaches into the prescribed building envelope along the western elevation at a height of 1.2m for a length of 5.7m. This represents a 17% variation to the numeric control.

Merit consideration

With regard 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:

Given the constraints of the site and the irregular western boundary of the proposed lot the proposed non-compliance is constrained to the front half of the dwelling where the western side setback is 1.0m. As the side setback increases towards the rear of the site where the pool is proposed, development is located within the boundary envelope. This design ensures that the dominance of the built form is reduced. The built form will remain sufficiently screened as presented to the public domain and surrounding properties. The proposal is therefore considered to achieve the desired future character of the locality.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment:

Given the unusual configuration of the site, the western elevation will face the front elevation of the proposed dwelling on the adjoining lot to the south. It is also noted that adequate physical separation (10.8m) will be provided between the two (2) dwellings with the private open space of the proposed dwelling on lot 1 not visible from the subject development.

To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment:

The proposed development responds appropriately to the topography across the site. The undulating site topography in conjunction with the provision of landscaping, will allow for the built form to remain largely consistent with the spatial characteristics of the natural environment.

The bulk and scale of the built form is minimised.

Comment:

As noted previously, the inclusion of varying materials and setbacks allows for the bulk and scale of the built form to be minimised.

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

Comment:

The proposal is considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties as a result of adequate building separation, site orientation and aspect and landscape treatment. The two (2) windows proposed along the western elevation at first floor level of the subject dwelling providing obscure glazing and therefore will protect the privacy of the dwelling proposed for Lot 1. Further, the application is accompanied by Certified Shadow Diagrams which denote compliance with the solar access requirements prescribed within Clause C1.4 of P21DCP.

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

Comment:

As above, the proposed development does not require the removal of any significant vegetation or tree canopy. In turn, the built form will remain significantly screened from the existing provision of vegetation and via an amended landscape plan as imposed as a condition of consent.

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.

D10.16 Construction, Retaining walls, terracing and undercroft areas

The subject site contains retaining walls which were approved as part of DA2018/0496. The retaining walls are identified on the Signed Subdivision Plan issued by Council 11 May 2020 and have been constructed in accordance with the construction certificate plans (CC2019/0419).

A visit to the site revealed that two (2) large retaining walls have been constructed in the south western corner of the site with approval granted from Council. These unauthorised works are currently subject to a Stop Works Order by Council's Building Control Section. As the lots have now been registered, discussion of the unauthorised retaining walls is not required.

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 \$4,904 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$490,370.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0115 for Construction of a dwelling house and swimming pool on land at Lot 2 DP 1251762, 34 B Nullaburra Road, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
19125-10 H2, Sheet 3/11 - Issue K	3 February 2020	Icon Homes Pty Ltd

19125-10 H2, Sheet 4/11 - Issue K	3 February 2020	Icon Homes Pty Ltd
19125-10 H2, Sheet 5/11 - Issue K	3 February 2020	Icon Homes Pty Ltd
19125-10 H2, Sheet 6/11 - Issue K	3 February 2020	Icon Homes Pty Ltd
19125-10 H2, Sheet 7/11 - Issue K	3 February 2020	Icon Homes Pty Ltd
19125-10 H2, Sheet 8/11 - Issue K	3 February 2020	Icon Homes Pty Ltd
19125-11 H2, Sheet 5/11 - Issue L	31 March 2020	Icon Homes Pty Ltd
Inground Swimming Pool	Not dated	No author

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Drainage Layout Plan - 1	3 February 2020	VNK Consulting Pty Ltd
Stormwater Drainage Layout Plan - 2	3 February 2020	VNK Consulting Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 1070847S_02	23 January 2020	Abeaut Design Pty Ltd t/a Accurate Design and Draf
Geotechnical Site Investigation Report	3 June 2020	Soilsrock Engineering Pty Ltd

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	17 January 2020	Icon Homes Pty Ltd

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

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

2. Prescribed Conditions

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

hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
- A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,903.70 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 \$490,370.00.

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.

5. 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 SUBDIVISION WORKS CERTIFICATE

12. Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Soilsrock Engineering, dated 3 June 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

6. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's PITTWATER DCP21 and generally in accordance with the concept drainage plans prepared by VNK Consulting Pty Ltd, drawing number (ref No)030220-1 & 2, dated 03/02/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. Vehicle Driveway Gradients, parking and turning maneuvering area

The Applicant is to ensure driveway gradients, parking and turning area are designed in accordance with AS/NZS 2890.1:2004 and vehicles can leave in a forward direction. A practicing Civil Engineer shall certify compliance with AS/NZS 2890.1:2004 in this regard. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property.

8. Amended Landscape Plan

An amended landscape plan is required prior to Construction Certificate to satisfy the DA Lodgement Requirements, indicating existing trees to be retained, and proposed tree replacement planting and boundary planting.

The amended landscape plan shall include the following amendments/inclusions:

- indication of existing trees to be retained, noting that T9 and T12 as shown on the Site Plan for this application are required under Subdivision approval to be retained under the identification of T6 and T7 in DA2018/0496,
- confirmation that T8 as shown on the Site Plan for this application is to be retained,
- confirmation that T11 as shown on the Site Plan for this application is to be retained, subject to assessment by a AQF Level 5 Arborist,
- the proposed 2 x Fraxinus oxycarpa tree planting shall be deleted on the plan and native tree planting shall be installed on site within the rear of the property with individual soil area of 3m x 3m for each tree,
- tree planting x 2 shall be nominated at 75 litre container size and selected from the following list: Agonis flexuosa, Elaeocarpus reticulatus, Melaleuca linariifolia, Syzygium paniculatum, Syzygium leuhmannii, or any other selected native tree,
- screen shrub planting shall be included along the eastern boundary to attain a mature height of 3 metres, installed 1 metre apart and installed at 300mm container pot size.

Reason: to satisfy the landscape outcomes of Pittwater 21 DCP.

9. **Landscaping**

The landscape plan should be amended to ensure that at least 60% of any new planting incorporates native vegetation characteristic of the Pittwater Spotted Gum Forest - Endangered Ecological Community. Landscaping is to be outside areas of existing bushland and should not include environmental weeds. No Grevillea or Banksia hybrids are to be used in the landscaping for this development. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity conservation and management

10. **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.

11. **Swimming pool mechanical plant**

Any mechanical plant associated with the swimming pool and spa shall be acoustically treated so the pool filter does not emit any noise of 5dba above background noise at the nearest residential receiver.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Tree protection measures**

Tree protection measures shall be initiated at the commencement of works in accordance with AS4970- 2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment prepared by Hugh The Arborist under Subdivision approval DA2018/0496, including site supervision and certification of construction activity as listed in the following sections:

- Section 10. Recommendations, and
- Section 11. Arboricultural Work Method Statements and Tree Protection Requirements.

These works shall apply to the existing trees indicated on the Site Plan for this new dwelling application, drawing number 19125-10 H2 - issue K, for existing trees to be retained: T8, T9, T11, and T12.

a) The Certifying Authority or 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.

b) The tree protection measures specified in this clause must:

- i) be in place before work commences on the site,
- ii) be maintained in good condition during the construction period,
- iii) 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.

14. **Tree retention and removal within the property**

The following existing trees as indicated on the Site Plan for this new dwelling application, drawing number 19125-10 H2 - issue K, shall be retained and protected: T8, T9, T11, and T12.

T11 is permitted to be removed under Subdivision approval DA2018/0496, subject to a report from a qualified AQF Level 5 Arborist, that the site conditions that resulted in the recommendation for removal still applies. Otherwise T11 shall be retained and protected.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **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.

16. **Survey Certificate**

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

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

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

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

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

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

17. **Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected in accordance with AS4970-2009 Protection of Trees on Development Sites, and the Arboricultural Impact Assessment prepared by Hugh The Arborist, as related to Lot 2, including:

- i) all trees and vegetation within the property not listed for retention or otherwise 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, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF 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 an AQF 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 AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF 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 AQF 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 AQF 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 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.

Note: The arboricultural requirements under Subdivision approval DA2018/0496 continue to apply.

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

18. **Project Arborist**

A Project Arborist with AQF Level 5 qualifications in arboriculture/horticulture shall be engaged to supervise all excavation works in the vicinity of the proposed works to mitigate any damage to existing nearby existing trees.

The Project Arborist shall provide the Certifying Authority with certification details that the tree protection measures including on-site directions during excavation have been adhered to, and no adverse impacts have been created.

The Project Arborist shall provide the Certifying Authority with certification details that the tree protection measures specifically in the vicinity of existing trees T8, T9, T11, and T12 have

been undertaken in accordance with the requirements listed under the following sections:

- Section 10. Recommendations, and
- Section 11. Arboricultural Work Method Statements and Tree Protection Requirements.

Reason: to ensure tree protection is provided and maintained.

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

19. **Landscape completion**

Landscaping is to be implemented in accordance with the Amended Landscape Plan.

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 any conditions of consent.

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

20. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQF 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, as a result of the proposed development, 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.

21. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

22. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

23. **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.

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

24. **Landscape maintenance**

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

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All 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.

25. **Control of Weeds**

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

Reason: Weed management.

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

Signed



Penny Wood, Planner

The application is determined on 02/07/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments