

22 February 2024



Kerrie Shimeld  
51 Careel Head Road  
AVALON BEACH NSW 2107

Dear Sir/Madam

**Application Number:** Mod2023/0660  
**Address:** Lot 109 DP 8394 , 63 Marine Parade, AVALON BEACH NSW 2107  
**Proposed Development:** Modification of Development Consent N0263/14 granted for alterations and additions to a dwelling

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Anaiis Sarkissian  
**Planner**

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application Number:</b>	Mod2023/0660 PAN-390161
<b>Applicant:</b>	Kerrie Shimeld 51 Careel Head Road AVALON BEACH NSW 2107
<b>Property:</b>	Lot 109 DP 8394 63 Marine Parade AVALON BEACH NSW 2107
<b>Description of Development:</b>	Modification of Development Consent N0263/14 granted for alterations and additions to a dwelling
<b>Determination:</b>	Approved Consent Authority: Northern Beaches Council
<b>Date of Determination:</b>	22/02/2024
<b>Date from which the consent operates:</b>	22/02/2024

Under Section 4.55 (1a) Minor Environmental Impact of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

### Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

### Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

## Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

## Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

## Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

## Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

**Signed**                      On behalf of the Consent Authority



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Name                          Anais Sarkissian, Planner

Date                            22/02/2024

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-390161 MOD2023/0660	The date of this notice of determination	Modification of Development Consent N0263/14 granted for alterations and additions to a dwelling house.  Modify Condition No.1A - Modification of Consent - Approved plans and supporting documentation Modify Condition A6 - BASIX Certificate Add Condition A9 - Compliance with other Department, Authority or Service Requirements Modify Condition C8 - Bushfire Report Recommendations Delete Condition C10 - Geotechnical Report Delete Condition C11 - Window 26 Add Condition C10 - Privacy Screen Add Condition C11 - Waste Management Plan Add Condition D16 - Waste Management During Demolition Add Condition E7 - Swimming Pool Requirements Add Condition E8 - Waste Management Confirmation
PAN-217071 MOD2022/0220	9 August 2022	Modification of Development Consent N0263/14 granted for alterations and additions to a dwelling house.  Add Condition No.1A - Modification of Consent - Approved plans and supporting documentation Add Condition C10. Geotechnical Report
MOD2019/0655	25 March 2020	Modification of Development Consent N0263/14 granted for alterations and additions to a dwelling house.  Add Condition No.1A - Modification of Consent - Approved plans and supporting documentation Add Condition C10. Pool Deck Add Condition C11. Window 26

### Modified conditions

#### **A. Modify Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan

DWG 0319 1/5	E	Site Plan	Shimdesign	10 September 2023
DWG 0319 2/5	E	Lower Floor Plan	Shimdesign	10 September 2023
DWG 0319 3/5	E	Upper Floor Plan	Shimdesign	10 September 2023
DWG 0319 4/5	E	West Elevation; East Elevation; South Elevation	Shimdesign	10 September 2023
DWG 0319 5/5	E	North Elevation	Shimdesign	10 September 2023

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
BASIX Certificate	A506514	Shimdesign	8 September 2023
Geotechnical Report	J0152D	White Geotechnical Group	8 December 2023
Bushfire Assessment Report	240580	Building Code & Bushfire Hazard Solutions	23 January 2024
Schedule of Colours and Finishes	-	Shimdesign	n.d.

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Modify Condition A6 - BASIX Certificate to read as follows:**

All commitments listed in the BASIX Certificate ref. A506514 shall be complied with.

Reason: Legislative requirement.

**C. Add Condition A9 - Compliance with other Department, Authority or Service Requirements to read as follows:**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Aboriginal Heritage Office	Aboriginal Heritage Office Referral Response	21 December 2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

**D. Modify Condition C8 - Bushfire Report Recommendations to read as follows:**

Details in the Construction Certificate are to reflect the recommendations/requirements of the Bushfire Hazard Assessment Report prepared by Building Code & Bushfire Hazard Solutions dated 29 July 2014, and with the amended recommendations contained within the updated Bushfire Assessment Report prepared by Building Code & Bushfire Hazard Solutions dated 23 January 2024.

Reason: Bushfire safety.

**E. Delete Condition C10 - The geotechnical reports (prepared by White Geotechnical Group, dated 10th April 2014 and 16th December 2019) referenced in the Notice of Determination for NO263/14 and MOD2019/0655 is to be updated to reference the approved modification plans. Any updated recommendations of the report are to be incorporated into the development. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Amended Construction Certificate.**

Deleted.

**F. Delete Condition C11 - The proposed window No. 26 is to have translucent/obscured glazing. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.**

Deleted.

**G. Add Condition C10 - Privacy Screen to read as follows:**

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost southern edge of the deck located off the lounge room on the upper floor as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property.

**H. Add Condition C11 - Waste Management Plan to read as follows:**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan. Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

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

**I. Add Condition D16 - Waste Management During Demolition to read as follows:**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**J. Add Condition E7 - Swimming Pool Requirements to read as follows:**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, 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 Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

### **K. Add Condition E8 - Waste Management Confirmation to read as follows:**

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

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

### **Important Information**

This letter should therefore be read in conjunction with N0263/14 dated 4 December 2014.

MOD2019/0655 dated 25 March 2020.

MOD2022/0220 dated 9 August 2022..

### **Dictionary**

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Northern Beaches Council.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.



**Local planning panel** means Northern Beaches Local Planning Panel.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

**Sydney district or regional planning panel** means Sydney North Planning Panel.