

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1583
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<b>Responsible Officer:</b>	Kent Bull
<b>Land to be developed (Address):</b>	Lot 122 DP 17189, 1 Whale Beach Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Trent John Girdler Katie Sarah Girdler
<b>Applicant:</b>	Trent John Girdler

<b>Application Lodged:</b>	16/12/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	08/01/2021 to 25/01/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 220,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to a dwelling house including a swimming pool. In particular, the works include:

- Demolition works including the removal of a studio/outbuilding;
- Reconfiguration and additions to the existing dwelling house for three (3) bedrooms, one with an en-suite and a new living area;
- Extension to the rear of the dwelling house to include a laundry, W/C, kitchen, dining and living room with associated decking;
- Construction of an in-ground swimming pool with an associated cabana; and
- Landscaping works including tree and shrubs plantings as well as the removal of three (3) trees.

## 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 - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - D1.5 Building colours and materials

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.13 Landscaped Area - General

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 122 DP 17189 , 1 Whale Beach Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site is known as 1 Whale Beach Road, Avalon Beach and is legally referred to as Lot 122 in DP 17189.</p> <p>The site consists of one (1) allotment located on the southern side of Whale Beach Road.</p> <p>The site is regular in shape with a frontage of 15.24m along Whale Beach Road and a depth of 49.92m. The site has a surveyed area of 760.8m<sup>2</sup>. Pedestrian and vehicular access is gained via the Whale Beach Road frontage.</p> <p>The site is located within the R2 Low Density zone and accommodates a single storey fibro dwelling house, with a fibro studio/outbuilding towards the rear of an existing carport.</p>

The slope of the site is measured at 7.4%, falling approximately 3.7m from the rear boundary to the road frontage.

The site contains a modified landscape setting, with vegetation consisting of native canopy trees, shrubs, palms and turfed lawn areas.

The property is identified within Council's Biodiversity Protection and Wildlife Corridor mapping.

### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by predominantly dwelling houses within landscaped settings, with the exception of a senior living development (known as 'The Bangalley') directly adjacent the site.

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 January 2021

Photo evidence provided to Council of the notification sign being in place on site.

5 February 2021

Site inspection undertaken by the assessing officer.

Request for withdrawal letter sent to the applicant advising that the application could not be supported due to no Geotechnical certification being provided in relation to the excavation required for the proposed swimming pool.

10 February 2021

The applicant submits a Geotechnical Report with associated forms, revised architectural and landscape plans that are received by Council seeking to address the concerns of the letter. Amendments include siting the proposed swimming pool closer towards the north-eastern boundary of the site. In accordance with the Northern Beaches Community Participation Plan, re-notification is not required where the *"changes result in a lesser or reduction of environmental impacts"*.

## 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

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 from 08/01/2021 to 25/01/2021 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	The Arborist's Report and Landscape Plans submitted with the application are noted.



Internal Referral Body	Comments
	<p>Detailed comments from Council's Bushland and Biodiversity section regarding tree removals and replacement are also noted, and concurred with.</p> <p>In view of the above, no objections are raised to approval subject to the inclusion of tree protection conditions (as provided) to supplement landscape conditions recommended by Bushland and Biodiversity.</p>
NECC (Bushland and Biodiversity)	<p>Councils biodiversity referrals team have assessed this development application for compliance against the following relevant provisions:</p> <ul style="list-style-type: none"> <li>• Pittwater LEP Clause 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP Clause B4.6 Wildlife Corridors</li> <li>• Coastal Management SEPP Clause 11 Development on land in proximity to coastal wetlands</li> </ul> <p>Three (3) prescribed trees are proposed for removal in accordance with the submitted Arborist Report (Treeism Arboricultural Services 2020), including the following:</p> <ul style="list-style-type: none"> <li>• Tree 7 - <i>Syzygium smithii</i> (Common Lilly Pilly)</li> <li>• Tree 9 - <i>Eucalyptus botryoides</i> (Bangalay)</li> <li>• Tree 13 - <i>Eucalyptus punctata</i> (Grey Gum)</li> </ul> <p>The removal of the three (3) prescribed trees will not constitute a significant loss of canopy cover or a net loss in native canopy trees, as six (6) prescribed canopy trees will remain within the site.</p> <p>The submitted Landscape Plan (Discount Landscape Plans 2020) has prescribed that one (1) <i>Angophora costata</i> will be planted as a replacement canopy tree. An additional native canopy trees is also to be included in the Landscape Plan to compensate for the loss of prescribed canopy trees within the site. Replacement trees are to be of equivalent ecological value (i.e. <i>Eucalypt</i> species) selected from the Native Plant Species Guide - Pittwater Ward, which is available on the Council website  <a href="https://www.northernbeaches.nsw.gov.au/node/34932">https://www.northernbeaches.nsw.gov.au/node/34932</a>.</p> <p>The proposed application will not cause a significant impact on the biophysical, hydrological or ecological integrity of the proximal coastal wetland; or the quantity and quality of surface and ground water flows to and from the proximal coastal wetland, and as such, complies with cl. 11 of the Coastal Management SEPP.</p> <p>On internal review, Councils biodiversity referrals team are satisfied that the proposed development is in compliance with the relevant provisions subject to these conditions of consent.</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</p>

Internal Referral Body	Comments
	<p>Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><b>Coastal Management Act 2016</b> 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.</p> <p>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><b>State Environmental Planning Policy (Coastal Management) 2018</b> The subject land has been included on the 'Proximity to Coastal Wetlands Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 11 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment , the DA satisfies requirements under clause 15 of the CM SEPP.</p> <p>Objectives and requirements of the Clause 11 will be assessed by NECC - Bushland &amp; Biodiversity and NECC - Riparian Lands/Creeks'</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	<p>The proposal includes a below ground pool which requires excavation to a depth greater than 1.5m. As such the applicant shall submit a geotechnical report and and certified Forms 1 &amp; 1A in accordance with Pittwater 21 DCP Clause B8.1.</p> <p><b>Additional Information Received on 15/02/2021</b> <b>Geotechnical report and certified forms have been submitted. No objections to approval subject to conditions as recommended.</b></p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. A response was received

External Referral Body	Comments
	detailing that there would be "no impact to Ausgrid assets with the proposed additions", 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 and use.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A393165, dated 17 November 2020).

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. A response was received detailing that there would be "no impact to Ausgrid assets with the proposed additions", 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:

**11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The proposed development has been reviewed by Council's Biodiversity and Development Engineering divisions with regard to stormwater run off and the development is considered to not have a detrimental impact to the above matters listed in (a) and (b).

**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:

The development is not considered to increase coastal risks.

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	5.7m	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
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	>6.5m	-	Yes
Rear building line	6.5m	1.6m to swimming pool coping 3.5m to pool cabana 10.3m to dwelling house (addition)	75.4% (4.9m) 46.2% (3m) -	No No Yes
Side building line	2.5m (East)	1.3m to decking 1.6m to swimming pool coping 5.1m to dwelling house (addition)	48% (1.2m) 36% (0.9m) -	No No Yes
	1m (West)	1m to dwelling house (addition) 2m to pool cabana	- -	Yes Yes
Building envelope	3.5m (East)	Within envelope	-	Yes
	3.5m (West)	Within envelope	-	Yes
Landscaped area	50% (380.4m <sup>2</sup> )	47.8% (363.2m <sup>2</sup> )	4.4% (17.2m <sup>2</sup> )	No

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.15 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	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
C1.12 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
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

Under the provisions of this development control, two (2) off-street parking spaces are required to meet the demands of the resultant development (three bedroom dwelling house).

Whilst the application only seeks the construction of a new single space carport, consideration has been given that an additional space could be accommodated on the internal driveway to allow for the parking of up to two (2) vehicles on site in a tandem arrangement. The variation is considered to be reasonably applied when also accounting for the availability of on-street parking and proximity to local bus stops along Whale Beach Road and Barrenjoey Road.

Based on the consideration above, the development is consistent with the outcomes of the control and is supported on merit.

## C1.6 Acoustic Privacy

To ensure the protection of acoustic amenity, a condition is to be placed to ensure that the maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level when measured from any adjoining premises.

## D1.5 Building colours and materials

The applicant provided information on the external finishes of the proposed development on 10/02/21, detailing that the roof sheeting of the new addition would be Colorbond "Shale Grey" to match the existing finish of the dwelling house. Whilst "Shale Grey" is a lighter grey colour which is inconsistent with 'dark and earthy tones' requirement, consideration has been given that the intent of using this finish is to achieve consistency with the existing cottage. A condition has also been placed to ensure that this roof finish minimises solar reflections to neighbouring properties. This is to ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

The base of the original cottage is to be cladded with sandstone, with the applicant also indicating that the remainder of the external weatherboards being painted in a dark colour in accordance with the requirements of this control. As a specific external wall colour has not been provided, a condition of consent is to be applied to ensure the compliance with this control.

Subject to compliance with these conditions, the proposed development is considered acceptable in merit and consistent with the outcomes of this clause in this particular instance.

## D1.9 Side and rear building line

### Description of non-compliance:

The proposed swimming pool at 1.6m to the coping is seen to be technically non-compliant with the 6.5m rear setback requirement. It should be noted that the clause permits a 1m minimum setback variation subject to the following:

- satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and

### Comment:

As detailed in the submitted landscape plan, extensive plantings including Lilly Pillies and an Gum Tree are proposed along the south-eastern (rear) and north-eastern (side) boundaries.

- Council is satisfied that the adjoining properties will not be adversely affected, and

### Comment:

Adjoining properties are not considered to be adversely affected given the distance of this swimming pool from adjoining dwellings as well as the pool being in-ground and thereby not resulting in any unreasonable privacy impacts.

- the pool or spa is not more than 1 metre above ground level (existing), and

### Comment:

The swimming pool is designed to be in-ground and is not elevated more than 1m above ground level (existing).

- that the outcomes of this clause are achieved without strict adherence to the standards, and

Comment:

The proposed location of the swimming pool is seen to meeting the outcomes of this clause. A further assessment in this regard is provided below.

- where the site constraints make strict adherence to the setback impractical, and

Comment:

It is noted that a number of existing native canopy trees (marked T08, T10, T11 and T12) are to be retained along the north-eastern side setback area and as such, strict compliance with the rear setback control would be impractical as it would likely lead to an impact on the root zones of these trees.

- where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.

Comment:

Strict compliance with the rear setback control, would not necessarily lead to any adversely impact on the views of adjoining residential properties, however it may result in additional visual privacy and acoustic impacts for adjoining neighbours.

The proposed pool cabana at 3.5m from the rear boundary is also non-compliant with the 6.5m setback requirement, with the proposed decking to the dwelling house at (1.3m) and swimming pool coping (1.6m) also being inconsistent with the 2.5m side setback to the north-eastern boundary.

Merit consideration:

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

- *To achieve the desired future character of the Locality. (S)*

Comment:

The desired future character of the Avalon Beach Locality makes reference to "Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development."

In this regard, the proposed development maintains the appearance of a single storey weatherboard dwelling house that has been integrated with the existing vegetation and the planting of new canopy trees and native vegetation.

- *The bulk and scale of the built form is minimised. (En, S)*



Comment:

The proposed dimensions of the swimming pool cabana is not excessive, being 3.5m (W) x 3.5m (L) and 3.4m (H) and is expected to be 'open-in-style'. With the proposed decking and swimming pool being largely at ground level, the remaining built form impacts have been minimised with the dwelling house complying with the relevant side and rear setback control requirements.

- *Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment:

The proposed development is considered to maintain an equitable preservation of views and vistas to and/or from public/private places.

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

Comment:

Consideration has been given that the location of the proposed additions and landscaping will provide for a reasonable sharing of views for neighbouring properties.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment:

The proposed new decking breaching the side setback requirement is largely in an area where the existing decking to the rear of the dwelling house is located. Consideration has been given that this decking is not the primary outdoor entertainment area for the development and will not result in any unreasonable visual privacy impacts for the occupants at No. 3 Whale Beach Road. As discussed above, the proposed swimming pool and associated pool cabana is to be in-ground and sufficiently screened with Lilly Pilly plantings to further mitigate privacy and amenity impacts. The proposed development is not considered to result in any unreasonable solar access impacts to the development site or neighbouring properties.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

The proposed development maintains a number of existing native canopy trees throughout the site and seeks to replace trees that appear to be in a state of decline with new trees. When viewed from Whale Beach Road, the proposed dwelling will be seen to appear as secondary to the established and additional vegetation within the front yard.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

As highlighted above, flexibility has been applied to the location of the components of the proposal such as the swimming pool location, in order to minimise impacts on existing native trees and to also allow for greater access around the pool.

- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment:

As detailed in the submitted landscape plan, extensive plantings including Lilly Pillys, a Gum Tree and a Banksia Tree have been proposed, which, along with existing vegetation to be retained assist with visually reduce the built form.

- *A landscaped buffer between commercial and residential zones is achieved. (En, S)*

Comment:

Not applicable.

Based on the above, the proposed development is considered acceptable in merit and consistent with the outcomes of this clause in this particular instance.

### **D1.13 Landscaped Area - General**

Description of non-compliance

*Requirement:*

The total landscaped area shall be 50% of the site area (380.4m<sup>2</sup>).

*Proposed:*

The proposed landscaped area is 47.8% (363.2m<sup>2</sup>) resulting in a variation of 4.4% (17.2m<sup>2</sup>).

It should be noted that the clause permits up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only.

A revised landscaped area calculation including this variation would result in over 50% of the site being able to be considered as part of the overall landscaped area.

Merit Consideration

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

- *Achieve the desired future character of the Locality. (S)*

Comment:

The desired future character of the Avalon Beach Locality makes reference to "Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development."

In this regard, the proposed development has been integrated with existing vegetation and the planting of new canopy trees and native vegetation.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The proposal maintains the appearance of a single storey weatherboard dwelling house, that is largely compliant with the relevant built form controls to minimise the bulk and scale of the development.

- *A reasonable level of amenity and solar access is provided and maintained. (En, S)*

Comment:

The proposed development is not considered to maintain a reasonable level of amenity and solar access to the subject site and neighbouring properties.

- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment:

With the exception of removing trees that appear to be in some state of decline, the proposed landscaping arrangement is seen to assist with visually reducing the built form of the development.

- *Conservation of natural vegetation and biodiversity. (En)*

Comment:

The proposed development seems to conserve a number of healthy native canopy trees while also enhancing the biodiversity of the site through new tree plantings and additional native vegetation.

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

Comment:

The proposed stormwater arrangement has been reviewed by Council's Development Engineer as acceptable, subject to compliance with conditions relating to details concerning the On-site Stormwater Detention system.

- *To preserve and enhance the rural and bushland character of the area. (En, S)*

Comment:

Through the retention of a number of existing trees as well as the planting of additional trees and native vegetation, the bushland character of the area will be preserved and enhanced.

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

Comment:

As detailed above, the proposed development retains a significant portion of the site (363.2m<sup>2</sup>) for landscaping. Further, areas such as uncovered decks allow for a level of infiltration into the water table. Along with the provision of an On-site Stormwater Detention system, the proposed development is considered to minimise run-off and provide for effective stormwater management.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

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

The proposal will not significantly affect 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 \$2,200 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$220,000.

## **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 DA2020/1583 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 122 DP 17189, 1 Whale Beach Road, AVALON 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
A-127, Sheet 1 of 2, Amendment A (Site & Floor Plan, Existing Elevations & Sections)	19/1/2021	AH Design
A-127, Sheet 1 of 2, Amendment A (Site & Roof Plan, Elevations)	19/1/2021	AH Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, Ref. A39165	17 November 2020	AH Design
Arboricultural Impact Assessment	December 2020	Treeism Arboricultural Services
Geotechnical Report, Ref. 06/07390	12/2/2021	Michael Adler & Associates

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
L/01'A' (Proposed Landscape Plan)	09.02.2021	Discount Landscape Plans



<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
WASTE-127 (Waste Management Plan)	Nov 2020	AH Design

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 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.

- (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 \$2,200.00 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 \$220,000.00.

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](http://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 are required 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, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

### **6. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Michael Adler and Associates dated 10/2/2021 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.

### **7. Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended to include an additional native canopy tree to compensate for the loss of canopy trees within the site. All replacement trees are to be *Eucalypt* species selected from the Native Plant Species Guide - Pittwater Ward, which is available on the Council website <https://www.northernbeaches.nsw.gov.au/node/34932>).

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

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

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

- The "combustion fire place" and associated flue as indicated on Drawing No. A-127, Sheed 1 of 2, dated 19/1/2021 is to be amended to reflect a gas heater.

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

Reason: To comply with the Protection of the Environment Operations Act 1997.



9. **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 Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Partridge Structural Pty Ltd, job number 2020SO742, drawing number SK02, dated 15/12/2020. 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.

The drainage plans must address the following:

- i. OSD to be provided in accordance with Clause 9.0 of Council's Water Management for Development Policy
- ii. 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.

10. **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.

11. **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.

12. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

**13. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

**14. Schedule of External Finishes**

The external finishes of the development are to be consistent with the following:

- a. All joinery and supporting posts are to be finishes in natural timber or painted/finished in a dark and earthy tone equivalent to or darker than Colorbond "Windspray";
- b. All external cladding (with exception of the proposed sandstone cladding) are to be painted/finished in a dark and earthy tone equivalent to or darker than Colorbond "Windspray";
- c. All new roofing is to be a colour equivalent to or darker than Colorbond "Shale Grey", and
- d. With the exception of the underside of eaves, ceilings and trim to windows and doors, the use of white on any external finish is not permitted.

The schedule of external finishes is to be submitted to the Certifying Authority, prior to the issue of the Construction Certificate.

Reason: To minimise the visual impact of the resultant development.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

**15. Tree and vegetation protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation not approved for removal.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with Australian Standard 4970-2009 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 be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) 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,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an

Arborist with minimum AQF Level 5 in arboriculture on site,  
vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,  
vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,  
viii) 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,  
ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site  
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.  
xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) The Certifying Authority must ensure that :the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and 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.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

Reason: tree and vegetation protection.

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

### 16. 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.

### 17. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];

- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

18. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

19. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

20. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, 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.

21. **Wildlife Protection and Rehabilitation**

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.

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

### **22. Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the amended Landscape Plan as per these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

### **23. Replacement of Canopy Trees**

At least two (2) locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with Council's Native Plant Species Guide - Pittwater Ward.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

### **24. No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

### **25. External Finishes**

The external finishes of the as-built development are to be consistent with the Schedule of External Finishes required by the conditions of this consent.

Documented evidence of consistency with this requirement is to be provided to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure that the visual impact of the development is minimised.

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



The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system 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 as to user for the on-site stormwater detention system 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 detention system is maintained to an appropriate operational standard and not altered.

27. **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**

28. **Wood burning/solid fuel fireplace**

The use of a wood burning/solid fuel fireplace is not approved as part of this consent.

Reason: To comply with the Protection of the Environment Operations Act 1997.

29. **Pool Filter Noise**

The maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient

background level when measured from any adjoining premises.

Reason: To protect the amenity for adjoining properties.

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

**Signed**



**Kent Bull, Planner**

The application is determined on 16/02/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**