

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1893
Responsible Officer:	Rhiannon McLardy
Land to be developed (Address):	Lot 100 DP 13457, 3 Elvina Avenue NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house including swimming pool and conversion of outbuilding to a secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sari Sharpe Timothy Christopher Sharpe
Applicant:	Timothy Christopher Sharpe
Application lodged:	29/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/12/2018 to 11/01/2019
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 47,450.00

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 - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

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

Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities

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

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

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

SITE DESCRIPTION

Property Description:	Lot 100 DP 13457 , 3 Elvina Avenue NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the south-western side of Elvina Avenue, Newport.</p> <p>The site is regular in shape with a frontage of 12.19m along Elvina Avenue and a depth of 41.27m along the eastern boundary. The site has a surveyed area of 505.1m².</p> <p>The site is located within the E4 - environmental living zone of the PLEP and accommodates a two-storey dwelling house and outbuilding at the rear.</p> <p>The site falls towards Elvina Avenue with a slope of approximately 29%. It has been terraced into three levels.</p> <p>The site contains a rear terraced lawn area, terraced gardens, and newly established gardens including native trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by two-and three-storey dwelling houses.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **N0014/15** for Demolition (excluding eastern wall) and the construction of new dwelling was approved on 13 August 2015 by application determination panel.

Application **T0194/16** for Tree/Bushland Works was approved by staff on 9 May 2016.

Application **T0472/16** for Tree/Bushland Works was approved by staff on 9 November 2016.

Works on the property were inspected by Council's Environmental Compliance Team on 5 October 2016 with regards to the construction of an outbuilding under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Merit 572102, ECM 5519176).

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Construction of a swimming pool
- Opening of a first floor window
- Use of first floor rooms as shown on plan
- Change of use of existing outbuilding to secondary dwelling including the addition of cooking facilities and a bathroom.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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 documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</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 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 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 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.</p>

Section 4.15 Matters for Consideration'	Comments
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 process council is in receipt of 3 submission/s from:

Name:	Address:
Mrs Mary Kitchen	5 Elvina Avenue NEWPORT NSW 2106
Mr James Beckett Critchley	C/- Vaughan Milligan Development Consulting PO Box 49 NEWPORT BEACH NSW 2106

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

- Permissibility
- Visual Privacy
- Acoustic Privacy
- Exempt Development
- Private Open Space
- Parking
- Impact on trees
- Landscaped Open Space

The matters raised within the submissions are addressed as follows:

- Permissibility
Concern has been raised that the E4 zone is not permissible for secondary dwellings.

Comment:

According to the Pittwater Local Environmental Plan 2014, which is being used in the assessment of this application, Secondary Dwellings are permitted with consent in the E4 zone.

- Visual Privacy
Concern has been raised by both neighbours of the potential for additional overlooking related to the change of use of the existing outbuilding.

Comment:

The change of use of the existing outbuilding into a secondary dwelling will result in an intensification of the use of the structure. The proposal is considered to be consistent with the requirements of the Pittwater 21 Visual Privacy control. The deck is designed as a passage between the secondary dwelling and the lower level of the property and not as a space for entertaining. A privacy screen has been attached to the west elevation of the deck. The window on the west elevation is attached to a bathroom which is considered to be a non-habitable room. The window on the east elevation is attached to the main bedroom space of the proposed secondary dwelling. Both windows are more than 9 metres away from the windows on neighbouring properties and, due to the slope of the land the windows will not create any unreasonable overlooking into private open space in rear yards.

- Acoustic Privacy
Concern has been raised about the impact of the intensified use of the deck and the location of the swimming pool pump and the negative acoustic impacts.

Comment:

The deck, which is attached to the proposed secondary dwelling is unlikely to be used as a space for entertaining due to its width. The space is more likely to be used as passage between the secondary dwelling and the principal dwelling/private open space and will not create an unreasonable acoustic impact.

The sound proof pump box for the swimming pool has been indicated to be situated under the stairs on the eastern side of the property. A condition has been included in the recommendation of this report that swimming pool equipment such as the swimming pool pump do not register 5dBA above the background noise when measured from the nearest property boundary. As conditioned the swimming pool pump will not create an unreasonable impact on acoustic privacy.

- Exempt Development
Concern has been raised that the existing outbuilding, which has been stated as being built

under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, does not meet the development standards of Subdivision 9 of the code and therefore cannot be considered as being built as exempt.

Comment:

This Development Application is not seeking consent for the built form but rather for the change of use and internal works relating to the conversion. The outbuilding is subject to a Compliance Department investigation.

- **Private Open Space:**
Concern has been raised that the secondary dwelling does not have sufficient private open space.

Comment:

Under Clause C1.7 of the Pittwater 21 DCP there is no numeric requirement for the amount of private open space required for secondary dwellings. Secondary dwellings are suggested to have an informal sharing arrangement with the principal dwelling. The amount of private open space supplied by the principal dwelling is sufficient and suitably sited for this purpose.

- **Parking:**
Concern has been raised that the development does not comply with the car parking space requirements.

Comment:

The provision of parking has been assessed under Clause B6.3 of the Pittwater 21 DCP. While the development has a numerical non-compliance with the Clause it has been assessed that it is consistent with the outcomes of the Clause. See later in this report for a full assessment.

- **Impact on Trees**
Concern has been raised about the impact of the excavation of the swimming pool on the trees of the neighbouring property (97 Prince Alfred Road).

Comment:

Council's landscape officer has assessed the potential impact of the proposed excavation on the health of the tree on the boundary between 97 Prince Alfred Road and the subject site and found it unlikely to have an impact. A condition has been included in the recommendation of this report requiring that existing trees, including those on adjoining properties, be retained and protected during building work.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building	The application has been investigated with respect to aspects relevant to the Building

Internal Referral Body	Comments
Assessment - Fire and Disability upgrades	<p>Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p> <p>Change of Use/Fire Safety Upgrade</p> <p>The existing levels of fire safety within the premises are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 94 of the Environmental Planning and Assessment Regulation 2000.</p> <p>The fire safety upgrading works are to be included in the Construction Certificate and be implemented prior to occupation of the new building or part.</p> <p>Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety.</p>
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to the protection of exist trees and vegetation, and completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 2 DCP 2014 Controls:</p>



Internal Referral Body	Comments
	<p>B4.22 Preservation of Trees or Bushland Vegetation C1.1 Landscaping C1.11 Secondary Dwellings and Rural Worker's Dwellings</p> <p><u>Planner Comment:</u> The recommendations of the Biodiversity Officer and the Landscape Officer regarding the implementation of the Landscape Plan (DA7) have been combined to form a single condition to be complied with prior to the issue of the Occupation Certificate.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against Pittwater Local Environment Plan Clause 7.6 Biodiversity, Pittwater 21 Development Control Plan B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor, and PDCP B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community (PSGFEEC).</p> <p>The PSGFEEC vegetation community, while previously represented on site by tree canopy species, does not occur on site as the remnant eucalypt trees have been removed in accordance with previous consents. I note that Tree Application TO194/16 that consented to removal of one Pittwater Spotted Gum required replacement with three trees. In addition, DANO014/15 required planting of four trees capable of reaching 8.5 metres, and the referral response completed by Council's Landscape staff refer to this.</p> <p>The B4.4 and B4.7 outcomes generally require the reinstatement of flora and fauna habitat, wildlife corridors and PSGFEEC vegetation to link remnants. The controls require landscaping to contain at least 80% locally native species. and in addition the planting of two canopy trees or appropriate native vegetation and the removal/control of noxious and environmental weeds. The landscape plan is to be amended prior to CC to address these controls, and mark on the Plan the trees that have been planted and maintained on site that satisfy the tree replacement requirements of the previous consents.</p> <p><u>Planner Comment:</u> The recommendation of the Biodiversity Officer to implement the Landscape Plan with amendments prior to the issue of the Construction Certificate has been considered. However, it is considered that it is more appropriate for this condition to be implemented prior to the issue of the Occupation Certificate. The recommendations of the Biodiversity Officer and the Landscape Officer regarding the implementation of the Landscape Plan (DA7) have been combined to form a single condition to be complied with prior to the issue of the Occupation Certificate.</p>
NECC (Development Engineering)	<p>The site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achieved in accordance with the geotechnical report provided by Douglas Partner. Other than the swimming pool no additional impervious area is proposed, therefore no OSD will be required. No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>This application is recommended for approval. Despite the application being located within the coastal environment area under the Coastal Protection and Management Act 1989, it is believed the works are not of a nature that will increase the existing impact of the project on the Pittwater Estuary, as the secondary dwelling is replacing an existing structure and the works are limited to stormwater.</p>

Internal Referral Body	Comments
	A sediment and erosion control plan has not been provided. The applicant should ensure erosion controls are put in place prior to any work on site and maintained until work is complete and vegetation is re-established. This should include sediment fencing and socks in the street gutters to drains.

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. 977067S). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	40	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.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed pool is located in the rear yard and the secondary dwelling is contained within an existing

outbuilding. Both are separated from the foreshore area by private land and a public road. There are no known places or items of aboriginal heritage in the vicinity. The proposal does not involve the removal of any vegetation other than grass and will not have an unreasonable impact on biophysical, hydrological and ecological environments or processes.

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

Comment:

The proposal is considered to have minimal or no impact in any of these areas.

14 Development on land within the coastal use area

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

Comment:

The proposed works are minimal in scale and at the rear of the site and will not affect access or views to and from the foreshore. The proposal will not result in any overshadowing or wind funnelling to the foreshores. There are no know heritage items or places in the vicinity. The proposal is therefore considered to have minimal or no impact in any of these areas.

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

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:

It is considered that the proposal complies with this clause.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	2.66m	N/A	Yes
Height of Buildings (Secondary Dwelling - Zone E4):	5.5m	2.66m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	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
Rear building line	6.5m	1.19m (outbuilding - existing), 8.84m (pool coping)	81.7%	No
Side building line	2.5m	3.5m (outbuilding - existing), 8.92 (pool coping)	N/A	Yes
	1m	1m (pool coping)	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes

	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	30.2% (152.52m ²) 33.73% (170.36m ²) - with variation	49.66% 43.78%	No No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
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
B8.2 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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The proposal has been assessed by Council's Bushland and Biodiversity Officers who have recommended it for approval, subject to conditions which have been included in the recommendation of this report.

B6.3 Off-Street Vehicle Parking Requirements

Description of non-compliance:

There is no additional car-parking space proposed to be provided for the secondary dwelling where the requirement is for one (1). The driveway does not meet the requirements of a hardstand space as set out in the Pittwater 21 DCP and cannot be counted towards parking space.

Merit Consideration:

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

An adequate number of parking and service spaces that meets the demands generated by the development.

The principal dwelling is adequately serviced by the existing double garage which provides two (2) car parking spaces. The secondary dwelling will not result in a significant increase in demand for car parking. On-street car parking on Elvina Avenue, while limited, is considered to be sufficient for any increased demand in car parking that may arise from the secondary dwelling.

It is noted that while the development has not been built under SEPP Affordable Housing, the SEPP does not require additional car parking spaces to be provided for secondary dwellings.

Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.

The provision of an additional compliant parking space on the site would create unreasonable environmental impacts as the site slopes steeply towards the road and significant excavation would have to occur to create a space with the appropriate grade for an open hard stand parking space as defined by the Pittwater 21 DCP.

Safe and convenient parking.

The parking provided on-site for the principal dwelling is safe and convenient.

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 first rear terraced level. The existing amount of private open space in this area is 54m². The proposal is for a swimming pool in this area reducing the amount of private open space to 34.48m².

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 the terraced lawn. The terraced lawn is relatively flat and 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 constraints of the site and terraced nature of the rear yard means that the area proposed as private open space is not directly accessible from living areas. However, the stairs to reach the terraced lawn and pool area are directly in front of the rear entry way of the principal dwelling enabling easy access to the area. Similarly, while the private open space is not directly accessible from the living area of the secondary dwelling, the deck and stairs enable easy access to the terraced lawn.

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

The private open space is not unreasonably affected by overshadowing.

C1.12 Waste and Recycling Facilities

The provided waste management plan has not been signed by the applicant. To ensure proper disposal

of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a Construction Certificate.

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

Description of Non-compliance:

The existing outbuilding, which is proposed to have a change of use to a secondary dwelling, has a rear setback of 1.19m where the requirement is for 6m.

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. (S)
The proposal meets the desired future character of Newport.

The bulk and scale of the built form is minimised. (En, S)
The proposed secondary dwelling uses the built form of the existing outbuilding which was constructed as exempt development and is small in scale.

Equitable preservation of views and vistas to and/or from public/private places. (S)
The built form of the development is already existing. The change of use to a secondary dwelling will not affect preservation of views.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.
The proposal does not affect view sharing.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)
The proposed secondary dwelling is wholly contained within the built form of the existing outbuilding and will not create any additional overshadowing affects. A reasonable level of privacy is maintained by the placement and use of the windows. The intensification of the use of the outbuilding will not create any unreasonable impacts on the amenity of neighbouring properties.

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)
The proposal does not include the removal of any vegetation. A condition has been included in the recommendation of this report which requires additional planting in accordance with the provided landscape plan as well as additional canopy trees or appropriate native vegetation. The proposed secondary dwelling is at the rear of the site and does not affect the streetscape.

Flexibility in the siting of buildings and access. (En, S)
The siting of the proposed secondary dwelling makes use of the existing outbuilding structure and allows for other areas of the site, such as the existing terraced lawn, to continue to be able to be used for additional functions like private open space.

Vegetation is retained and enhanced to visually reduce the built form. (En)
The proposal does not involve the removal of any significant vegetation. A condition has been included in the recommendation of this report that requires additional planting in accordance with the provided landscape plan as well as additional canopy trees or appropriate native vegetation which will reduce the impact of the built form.

To ensure a landscaped buffer between commercial and residential zones is established. (En, S)
The site does not form part of the buffer between commercial and residential zones.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance:

The proposed Landscaped Open Space is 30.2% (152.52m² - 33.73%/170.36m² with variation) where the requirement is for 60% (303.06m²). The existing LOS is 33.87% (171.1m²).

Merit Consideration:

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

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

The proposal is consistent with the desired future character of Newport.

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

The proposed changes in landscaping are due to the construction of an in-ground swimming pool. The swimming pool is at ground level and will not add unreasonably to the bulk and scale of development on the site.

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

Solar access is not affected by the proposal which is for the change of use of an existing outbuilding and the construction of a pool. A reasonable level of amenity is maintained as the swimming pool is in-ground and will not create any additional overshadowing.

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

There is no removal of vegetation proposed as part of this Development Application. The reduction in landscaped open space is to make way for a swimming pool at ground level and does not require the removal of any vegetation other than lawn. Landscaping,

Conservation of natural vegetation and biodiversity. (En)

The proposal does not involve the removal of any native vegetation as the reduction in landscaped open space is due to the construction of a pool in an area that is currently covered in lawn.

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

The site has had significant landscaping works, including terracing, undertaken as part of a previous consent. The construction of the in-ground swimming pool will not result in any unreasonable additional impacts on stormwater runoff or natural drainage channels.

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

The proposal does not involve the removal of any bushland vegetation, preserving the current character.

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

The significant landscaping works that have already occurred on the site have resulted in a highly terraced site. The reduction in landscaped open space will not have an unreasonable impact on water management.

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

The proposal does not include any further terracing.

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

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;

- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1893 for Alterations and additions to a dwelling house including swimming pool and conversion of outbuilding to a secondary dwelling on land at Lot 100 DP 13457, 3 Elvina Avenue, 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
Site & Site Analysis Plan - DA3	28/11/2018	Phil Brown
First floor plan - DA4	28/11/2018	Phil Brown
Secondary dwelling & inground pool - DA6	28/11/2018	Phil Brown

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate	12/11/2018	Phil Brown Drafting

Geotechnical Assessment	21/11/2018	Douglas Partners
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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
Landscape Plan - DA7	28/11/2018	Phil Brown

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	November 2018	Nolan Planning Consultants

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) 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.
- (c) 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.

- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

5. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Douglas Partners (Project 78625.04) dated 21 November 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

6. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

7. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Council's Waste Management Guidelines. Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.(DACPLCPCC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. Installation and Maintenance of Sediment and Erosion Control

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

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. Tree and vegetation protection

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site, excluding exempt trees under the relevant planning instruments of legislation,
- ii) all other 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, with particular reference to Section 4,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

- iv) 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,
- v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
- viii) should either or all of v), vi) and vii) 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,
- ix) 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.

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

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

10. **Change of Use**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under S109N of the Environmental Planning & Assessment Act 1979.

11. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **Landscape Maintenance Program**

The applicant is to submit proof of an agreement to the Principal Certifying Authority with the Occupation Certificate application for the maintenance of all site landscaping by a qualified horticulturalist, landscape contractor or landscape architect, for a period of six months, from date of issue of Certificate of Occupation.

Reason: To ensure landscaping is viable, consistent with approved plans and will thrive.

13. **Practical Completion of Landscape Works**

A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the landscape working drawings and specifications.

Reason: To ensure landscaping is adequate and consistent with approved plans.

14. **Swimming Pool Requirements**

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

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

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

15. **Change of Use/Fire Safety Upgrade**

The existing levels of fire safety within the premises are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of Clause 94 of the Environmental Planning and Assessment regulation 2000.

The fire safety upgrading works are to be included in the Construction Certificate and be implemented prior to the occupation of the new building or part.

Reason: to ensure adequate provision is made for fire safety in the premises for building

occupant safety.(DACPLFPOC1)

16. Provision of Landscape Working Drawings

Landscaping is to be implemented in accordance with the Landscape Plan DA7, prepared by Phil Brown Drafting, inclusive of the following requirements:

- i) the planting of two canopy trees or appropriate native vegetation and removal / control of noxious and environmental weeds.
- ii) ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community)
-) the proposed planting between the secondary dwelling and the primary dwelling, as shown on the plan, shall consist of native shrubs capable of reaching 1 metre in height at maturity, and planted no more than 500mm apart,
- ii) DA approval N0014/15 condition B.7 continues to apply: at least four (4) locally native canopy trees which will mature at a height of no less than 8.5 metres are to be planted onsite. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
- iii) prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: To ensure adequate and appropriate landscaping is carried out to retain the Urban Forest/Natural Environment.

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

17. Landscape maintenance

All landscape components are to be maintained for the life of the development.

A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme in accordance with the landscape plan.

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

18. Environmental and priority weed control

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015 No. 24.

Reason: preservation of environmental amenity.

19. 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.

20. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

21. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

22. **Swimming Pool Equipment**

The swimming pool equipment that is capable of generation noise such as the swimming pool pump, is to be located within an acoustic box and shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure the proposal complies with the Protection of the Environment Operations Act 1997. (DACPLGOG1)

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

23. **Restoration of Damaged Public Infrastructure**

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

Reason: To ensure public infrastructure is returned to the state it was in prior to development.

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

Signed



Rhiannon McLardy, Planner

The application is determined on 11/04/2019, under the delegated authority of:



Rodney Piggott, Manager Development Assessments