

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2442
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 22 DP 602041, 90 Cabbage Tree Road BAYVIEW NSW 2104
Proposed Development:	Construction of a Swimming Pool, Spa and Pavilion
Zoning:	RU2 Rural Landscape
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Richard Paul O'Farrell
Applicant:	Suzanne Green

Application Lodged:	15/12/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	22/12/2021 to 25/01/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 440,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for the construction of a swimming pool, spa and pool pavilion.

ASSESSMENT INTRODUCTION

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

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Schedule 5 Environmental heritage
 Pittwater 21 Development Control Plan - B1.4 Aboriginal Heritage Significance
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy

SITE DESCRIPTION

Property Description:	Lot 22 DP 602041 , 90 Cabbage Tree Road BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Cabbage Tree Road.</p> <p>The site is irregular in shape with a frontage of approximately 58m along Cabbage Tree Road and a depth of 394.5m along the eastern boundary. The site has a surveyed area of 3.17 hectares.</p> <p>The site is located within the RU2 Rural Landscape zone and accommodates one storey stone (with attic) dwelling with a pitched roof with gazebo. Vehicular access is from the front of No. 86 Cabbage Tree Road via a right of carriageway which leads to a large, gravel hardstand close to the house. There is also a drainage easement through the front portion of the site.</p> <p>The site slopes towards the rear of the site.</p> <p>The majority of the site comprises dense bushland. However, in front of the dwelling there is a very extensive garden set both sides of a step valley that falls to the north and is heavily planted with native and exotic trees and shrubs.</p> <p>Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by low density residential dwellings located on large allotments and surrounded by dense bushland.</p> <p>Site Inspection</p>

A site inspection was conducted 18 March 2022.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site. However, it is noted the house and gardens are known as Waterfall Cottage and Gardens and is Local Heritage item.

Waterfall Cottage is of local historic, aesthetic and research significance as a fine representative example of a late 20th century large private ornamental garden, with elements of the wild garden, woodland gardens, warm-temperate and rainforest species in a bush setting. A dwelling has been on the site since the mid-late 20th century. From the heritage impact statement it is noted that the current stone and timber dwelling was built between 1988 -1989.

The land has been used for residential purposes for an extended period of time.

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

Section 4.15 Matters for Consideration	Comments
	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)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This 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>
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	No matters have arisen in this assessment that would justify the

Section 4.15 Matters for Consideration	Comments
interest	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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bush Fire Planning Services, dated 27 July 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/12/2021 to 25/01/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Environmental Health supports the installation of the solid fuel heater in the proposed location as noted within DA2021/2332 for 90 Cabbage Tree Road Bayview and should not impact on surrounding neighbours if installed and run correctly as per the subject conditions.</p> <p>Recommendation</p> <p>supported - subject to conditions</p>
Environmental Health (Solid Fuel/Oil Heater)	
Environmental Health (unsewered lands)	<p>General Comments</p> <p>Environmental Health supports the installation of an AWTS to replace the Septic tank at 90 Cabbage Tree Road Bayview as set out within the Report "Harris Environmental Consulting - Soil & Site Assessment</p>

Internal Referral Body	Comments
	<p>for onsite wastewater disposal - 90 Cabbage Tree Road Bayview, NSW. dated 1 December 2021 version 1.0 Ref 4932WW" TRIM number 2021/871782 for DA2021/2442</p> <p>Recommendation</p> <p>Supported - subject to conditions</p>
Environmental Health (unsewered lands)	
Landscape Officer	<p>The development application is for a proposed swimming pool and poolside pavilion.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause RU2 Rural Landscape zone, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D2 Bayview Heights Locality <p>The site exists upon RU2 Rural Landscape zone land and the landscape objectives of the zone includes: maintain the rural landscape character of the land; minimise conflict between land uses within this zone and land uses within adjoining zones.</p> <p>The proposed location of the swimming pool and poolside pavilion requires the removal of five prescribed existing trees as reported in the Arboricultural Impact Assessment as follows: tree 6, 7 and 8: Magenta Lilly Pilly (<i>Syzygium paniculatum</i>); tree 9: Sandpaper Fig (<i>Ficus coronata</i>); and tree 10: Black She-oak (<i>Allocasuarina littoralis</i>). Trees 6, 7, 9, and 10 have existing arboricultural issues and are recommended for removal regardless of development. The site is predominantly occupied by dense bushland with many trees existing across the property, and subject to tree replacement within the property, Landscape Referral raise no objections to the recommendations of the Arboricultural Impact Assessment, that include the retention of other trees within the area of the proposed development.</p> <p>The Statement of Environmental Effects notes that additional landscaping is proposed around the structure, however no Landscape Plan is submitted, and should the application be approved, conditions of consent shall be imposed for new landscape works.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following biodiversity legislation and controls:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • Pittwater LEP Clause 7.6 (Biodiversity Protection) • Pittwater DCP Clause B4.18 (Heathland/Woodland Vegetation) • Northern Beaches Bush Fire Prone Land Map

Internal Referral Body	Comments			
	<p>The submitted arborist report (Jacksons Nature Works, 24 August 2021) assesses 11 trees within the vicinity of proposed works; four of which are exempt by species, and seven of which are prescribed (protected).</p> <p>Five prescribed trees are proposed for removal; these are:</p> <ul style="list-style-type: none"> • Tree 6: Magenta Lilly Pilly (<i>Syzygium paniculatum</i>) • Tree 7: Magenta Lilly Pilly (<i>Syzygium paniculatum</i>) • Tree 8: Magenta Lilly Pilly (<i>Syzygium paniculatum</i>) • Tree 9: Sandpaper Fig (<i>Ficus coronata</i>) • Tree 10: Black She-ok (<i>Allocasuarina littoralis</i>) <p>All but one of these trees has been assessed in the submitted arborist report as compromised by storm damage and/or dangerous. Given that the site contains extensive bushland that is not proposed to be impacted, the Biodiversity referrals team raises no objections to the removal of these trees - subject to concurrence by Council's Landscape referrals team.</p> <p>It is noted that Trees 6, 7 and 8 have been identified as Magenta Lilly Pilly, a listed threatened species. Given that these trees appear to be part of a cohort of old exotic trees (e.g. <i>Araucaria budwilli</i>, <i>Jacaranda mimosifolia</i>), it is assumed that these specimens have been planted along with other now-advanced trees. As such, it is considered that further assessment in the form of a s7.3 Biodiversity Conservation Act ("five part test") assessment is not required.</p> <p>The submitted bush fire report (BPAD, 27 July 2021) recommends that "a vegetation management plan be formulated to provide for the ongoing maintenance of the vegetation within 10m of the new and existing building". This is supported and should take the form of a landscape plan prepared prior to the construction certificate. This will be conditioned.</p>			
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.			
NECC (Stormwater and Floodplain Engineering – Flood risk)	The two creeks which run through the property can become flood affected, however the proposed pool and pavilion are outside of the flood extent.			
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%;"> <thead> <tr> <th data-bbox="520 1805 1442 1850">HERITAGE COMMENTS</th> </tr> <tr> <th data-bbox="520 1850 1442 1883">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 1883 1442 2136"> <p>This application has been referred as the site is a local heritage item, Item 2270402, Waterfall Cottage and garden, 90 Cabbage Tree Road, Bayview, listed in Schedule 5 of Pittwater Local Environmental Plan 2014. The site is also within the vicinity of Item 2270158, Katandra Bushland Sanctuary, 84 Lane Cove Road, Ingleside, located on the opposite side of Cabbage Tree Road, some 100 metres away.</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>This application has been referred as the site is a local heritage item, Item 2270402, Waterfall Cottage and garden, 90 Cabbage Tree Road, Bayview, listed in Schedule 5 of Pittwater Local Environmental Plan 2014. The site is also within the vicinity of Item 2270158, Katandra Bushland Sanctuary, 84 Lane Cove Road, Ingleside, located on the opposite side of Cabbage Tree Road, some 100 metres away.</p>
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Internal Referral Body	Comments		
	<p>Details of heritage items affected</p>		
	<p>Details of this heritage item, as contained within the heritage inventory, are: Item 2270402, Waterfall Cottage and garden, 90 Cabbage Tree Road, Bayview <u>Statement of Significance</u> Waterfall Cottage is of local historic, aesthetic and research significance as a fine representative example of a late 20th century large private ornamental garden, with elements of the wild garden, woodland gardens, warm-temperate and rainforest species in a dramatic bush setting. It is representative of the mid-late 20th century permanent suburban settlement of the Bayview area, reflecting improved transport links, affluence and subdivision, the building of larger homes with elaborate gardens as secluded retreats from the city, a tranquil style of living, closer to nature. The property's bushland is representative of the Hawkesbury sandstone country of the Pittwater district in terms of rainforest and dry sclerophyll woodland flora and fauna.</p> <p>Waterfall Cottage is at least of local, arguably of regional and possibly state-level social significance, as a renowned private garden opened regularly to the public, popular for repeated visits over some years, through the Australian Open Garden Scheme and through its owner's sustained support for community and charity groups. Waterfall Cottage is rare locally and possibly at a state level, as a large, private informal, woodland and rainforest garden, regularly open to the public, incorporating a large amount of bushland and managed in sympathy with wild animals and birds. Few others exist at this scale, level of diversity and standard of maintenance. Owing to its size and relative intactness, it retains some potential to contain evidence of Aboriginal occupation and use, and historical archaeological relics.</p> <p>Due to increasing subdivision, block clearing and larger houses and areas of paving in the area, Waterfall Cottage's bushland is becoming locally rare in retaining a large bush block that is relatively little-cleared or modified, and thus retaining a degree of intact Hawkesbury sandstone escarpment and foot slope-related rainforest and dry sclerophyll woodland species of flora and fauna. In addition the garden contains many rare species of exotic plants, both in NSW and Australia.</p>		
	<p>Other relevant heritage listings</p>		
	<p>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</p>	<p>No</p>	<p>Comment if applicable</p>
	<p>Australian Heritage Register</p>	<p>No</p>	
	<p>NSW State Heritage</p>	<p>No</p>	

Internal Referral Body	Comments		
	Register		
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
Consideration of Application			
<p>This application proposes the construction of a swimming pool and pool pavilion, located to the east of the existing house, adjoining the driveway. It is sited below the ridgeline, into the sloping topography at this location. The pavilion, while having a roof and stone chimney, is not enclosed, being open onto a stone terrace and orientated towards the pool. Materials proposed include use of stonework (terrace, pool wall and chimney) and timber to blend in with the existing house and the vegetation. A total of 5 trees are proposed to be removed, however replanting is proposed (but unspecified as no landscape plan provided).</p> <p>The application was accompanied by a Heritage Impact Statement by John Oultram Heritage & Design (dated August 2021). This report has been reviewed and its conclusions agreed with.</p> <p>The heritage significance of this item is embodied in the gardens and landscape. The site is very large at 3.17ha and the area proposed for the pool and pavilion is located in one of the few areas accessible from Cabbage Tree Road. It is located in a previously filled area, with vegetation which is not of the same quality as plantings further into the site. It is not considered unreasonable for the owners to be able to develop recreational facilities within such a large site.</p> <p>It is noted that 5 trees are proposed to be removed, as detailed in the Arborist report, however 4 of these trees already have arboricultural issues. Replanting is proposed to replace these trees and to generally landscape the pool and pavilion structure, however no landscape plan was submitted with this application. It is noted that Council's Landscape Officer has required a number of conditions to protect the landscaped nature of the site, including the submission of a landscape plan, protection of all existing trees and vegetation during construction and re-planting.</p> <p>The heritage significance of this site is embodied in its landscape and vegetation. It is considered that the proposed development will blend into the landscape/garden because of its location on site and the proposed materials and colours. As a result, it will not have an adverse impact upon views within the site or views from the house. It is considered that the conditions required by Council's Landscape Officer will protect the vegetation on site and ensure that appropriate re-planting will occur to replace the vegetation removed</p>			

Internal Referral Body	Comments
	<p>and to integrate the development into the garden. In conclusion, it is considered that this proposal will not have an unacceptable adverse impact upon the heritage significance of the item (subject to Landscape Officer conditions being imposed).</p> <p>The proposed development will not be visible from the heritage item in the vicinity, Katandra Bushland Sanctuary, and therefore it will have no impact on the significance of this item.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of PLEP 2014:</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Janine Formica, Heritage Planner DATE: 28 March 2022</p>

External Referral Body	Comments
Aboriginal Heritage Office	<p>An inspection of the property by the Aboriginal Heritage Office and Council (12 January 2022) did not identify any Aboriginal heritage issues within the proposed development area.</p> <p>One area of potential was identified of the property, a sandstone overhang. Provided that this area is not impacted then the Aboriginal Heritage Office would not foresee any further Aboriginal heritage issues on the proposal. If the area would be impacted, then the Aboriginal Heritage Office would recommend further investigation ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional prior to any development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A435149 dated 11 October 2021).

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

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	Complies
Height of Buildings:	8.5m	5.8m	Yes

Compliance Assessment

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

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	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
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Schedule 5 Environmental heritage

The site is a local heritage item, Item 2270402, Waterfall Cottage and garden, 90 Cabbage Tree Road, Bayview, listed in Schedule 5 of Pittwater Local Environmental Plan 2014. The site is also within the vicinity of Item 2270158, Katandra Bushland Sanctuary, 84 Lane Cove Road, Ingleside, located on the opposite side of Cabbage Tree Road, some 100 metres away.

This application proposes the construction of a swimming pool and pool pavilion, located to the east of the existing house, adjoining the driveway. It is sited below the ridgeline, into the sloping topography at this location. The pavilion, while having a roof and stone chimney, is not enclosed, being open onto a stone terrace and orientated towards the pool. Materials proposed include use of stonework (terrace, pool wall and chimney) and timber to blend in with the existing house and the vegetation.

The application has been reviewed by Councils Heritage officer who has provided the following comments:

'The heritage significance of this item is embodied in the gardens and landscape. The site is very large at 3.17ha and the area proposed for the pool and pavilion is located in one of the few areas accessible from Cabbage Tree Road. It is located in a previously filled area, with vegetation which is not of the same quality as plantings further into the site. It is not considered unreasonable for the owners to be able to develop recreational facilities within such a large site.'

It is noted that 5 trees are proposed to be removed, as detailed in the Arborist report, however 4 of these trees already have arboricultural issues. Replanting is proposed to replace these trees and to generally landscape the pool and pavilion structure, however no landscape plan was submitted with this application. It is noted that Council's Landscape Officer has required a number of conditions to protect the landscaped nature of the site, including the submission of a landscape plan, protection of all existing trees and vegetation during construction and re-planting.

The heritage significance of this site is embodied in its landscape and vegetation. It is considered that the proposed development will blend into the landscape/garden because of its location on site and the proposed materials and colours. As a result, it will not have an adverse impact upon views within the site or views from the house. It is considered that the conditions required by Council's Landscape Officer will protect the vegetation on site and ensure that appropriate re-planting will occur to replace the vegetation removed and to integrate the development into the garden. In conclusion, it is considered that this proposal will not have an unacceptable adverse impact upon the heritage

significance of the item (subject to Landscape Officer conditions being imposed).

The proposed development will not be visible from the heritage item in the vicinity, Katandra Bushland Sanctuary, and therefore it will have no impact on the significance of this item.

Therefore, no objections are raised on heritage grounds and no conditions required'

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	Complies
Front building line	20m	61.9m	Yes
Rear building line	20m	319.2m	Yes
Side building line	E - 6.5m	10.8m	Yes
	W - 6.5m	57.3m	Yes
Building envelope	E - 3.5m	Within envelope	Yes
	W - 3.5m	Within envelope	Yes
Landscaped area	80%	98%	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.2 Bayview Heights Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	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
B3.11 Flood Prone Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	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
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.14 Separately Accessible Structures	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
D2.1 Character as viewed from a public place	Yes	Yes
D2.2 Scenic protection - General	Yes	Yes
D2.3 Building colours and materials	Yes	Yes
D2.5 Front building line	Yes	Yes
D2.6 Side and rear building line	Yes	Yes
D2.7 Building envelope	Yes	Yes
D2.9 Landscaped Area - Non Urban	Yes	Yes
D2.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D2.13 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B1.4 Aboriginal Heritage Significance

The application was referred to Councils Aboriginal Heritage Office who have reviewed the proposal and conducted a site inspection. The Aboriginal Heritage Office raises no objection to the proposal as long as the works do not impact on existing sandstone overhang.

C1.5 Visual Privacy

The proposed swimming pool is setback 10m from the eastern boundary and 11m from the swimming pool of no. 88 Cabbage Tree Road. The proposal meets the requirements of the control which requires private open space areas including swimming pools of the proposed and any existing adjoining dwellings to be protected from direct overlooking within 9 metres .

A review of the plans and site inspection has shown that the proposal is unlikely to cause any unreasonable privacy impacts to the adjoining property. Furthermore, the design of the proposal and the dense vegetation along the eastern boundary of the site will help to screen any potential views of the adjoining property to the east.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$4,400 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$440,000.

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 DA2021/2442 for Construction of a Swimming Pool, Spa and Pavilion on land at Lot 22 DP 602041, 90 Cabbage Tree Road, BAYVIEW, 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
DA101 - Site Plan / Roof Plan	-	Susan Green Interior Architecture and Design
DA102 - Site Analysis	-	Susan Green Interior Architecture and Design
DA121 - Material Board	-	Susan Green Interior Architecture and Design
DA201 - Pool Pavilion Floor Plan	-	Susan Green Interior Architecture and Design
DA301 - North Elevation	-	Susan Green Interior Architecture and Design
DA302 - East Elevation	-	Susan Green Interior Architecture and Design
DA303 - South Elevation	-	Susan Green Interior Architecture and Design
DA304 - West Elevation	-	Susan Green Interior Architecture and Design
DA321 - Section - AA	-	Susan Green Interior Architecture and Design
DA322 - Section - BB	-	Susan Green Interior Architecture and Design
HDA01 / P1 - Site Plan & Legend	17.11.21	Inline Hydraulic Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate Certificate number: A435149	11 October 2021	Susan Green
Geotechnical Investigation Report MMGEO2021AJ_AA Revision A	August 2021	GEO Mechanics
Lot 22, DP 602041, 90 Cabbage Tree Road, Bayview, NSW 2104	27/07/2021	Bush Fire Planning Services
Arboricultural Impact Assessment Report	24th August 2021	Jacksons Nature Works
Soil & Site Assessment for Onsite Wastewater Disposal REF: 4932WW	December 1, 2021	Harris Environmental Consulting

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Minimisation Plan	20 November 2021	Suzanne Green Interior Architecture and 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 2021

A monetary contribution of \$4,400.00 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 2021. The monetary contribution is based on a development cost of \$440,000.00.

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 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. Security Bond

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

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

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

6. Landscape Plan

A Landscape Plan shall be submitted to the Certifying Authority and shall document the extent of additional landscape works as well as tree replacement. The Landscape Plan shall be prepared by a landscape architect or landscape designer, and the following details shall be shown:

- i) all existing trees within proximity of the development works to be retained,
- ii) landscape design ground treatment proposal and planting around the proposed development, including a minimum of 80% locally native species as a proportion of the total number of plants. Locally native species are to be selected from the Pittwater Ward list in the Native Gardening Guide available on Council's website,
- iii) tree replacement of five locally native tree species to be located within the property capable of attaining at least 6 metres in height at maturity, and including at least three Magenta Lilly Pilly (*Syzygium paniculatum*),
- iv) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- v) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 5.0 metres from buildings, and at least 3.0 metres from common boundaries,
- vi) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the Landscape Plan has been documented in accordance with any conditions of consent.

Reason: maintain environmental amenity.

7. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Clause 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

8. **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 MM Geomechanics dated 1/8/2021 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.

9. **Landscape Plan**

A Landscape Plan is to be prepared which includes a minimum of 80% locally native species as a proportion of the total number of plants. Locally native species are to be selected from the Pittwater Ward list in the Native Gardening Guide available on Council's website. The Landscape Plan is to encompass the 10m buffer area recommended in Section 3 of the submitted bush fire assessment (BPAD, 27 July 2021).

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

Reason: To ensure compliance with Pittwater DCP Clause B4.18 (Heathland and Woodland Vegetation).

10. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the 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.

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. **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 for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) tree 6, 7 and 8: Magenta Lilly Pilly (*Syzygium paniculatum*); tree 9: Sandpaper Fig (*Ficus coronata*); and tree 10: Black She-oak (*Allocasuarina littoralis*).
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal, except as identified within the development application documents (ie. Arboricultural Impact Assessment) for retention in proximity to the development proposal, and these include: tree 1 - *Camellia sasanqua*, tree 2 and 3- *Jacaranda mimosifolia*, and tree 4 - *Araucaria bidwillii*.

Reason: To enable authorised development works.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

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) or vi) 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) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) 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.

Reason: Tree and vegetation protection.

15. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

16. **Waste Management During Development**

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

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

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

17. **Installation of waste water system**

Waste water system is to be installed as per the conditions and locations as set out within the report prepared by Harrisenvironmental Consulting " Soil & Site Assessment for onsite wastewater disposal 90 Cabbage Tree Road Bayview NSW Dated 1/12/2021 Ref 4932ww Version nu 1.0".

In addition, all pipe work from the tanks is to be purple in colour and before works are back filled, photos of works are to be taken and supplied with the application to operate the waste water system as evidence of works.

Reason: To ensure system is correctly installed as per information provided within the DA.

18. **Wildlife Protection**

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

Reason: To protect native wildlife.

19. **Wildlife protection**

All tree hollows proposed for clearing are to be inspected by the Project Arborist prior to removal. Any native wildlife is to be safely relocated prior to felling of the tree. The Project Arborist is to provide written certification of compliance to the Principal Certifying Authority prior to any Occupation Certificate.

Reason: To protect native wildlife.

20. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

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

21. **Landscape Completion**

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

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

22. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree and vegetation protection.

23. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

24. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

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

Reason: To protect wildlife habitat.

25. **Relocation of Hollows**

Any hollows in trees to be removed are to be salvaged prior to tree felling and reused as fauna habitat within areas of retained native vegetation on the site

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

Reason: To protect wildlife habitat.

26. **Certification of Landscape Plan**

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

27. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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 weeds.

28. **Waste Management Confirmation**

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

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

29. **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.

30. **Installation of solid/fuel burning heaters**

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918:2001 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

31. **Certification of solid fuel burning heaters**

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

32. **Waste Water System**

Prior to the issuing of any interim / final occupation certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifying Authority.

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

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

33. **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.

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

34. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

35. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

36. **Maintenance of solid fuel heaters**

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

37. **Operation of solid fuel burning heaters**

You are requested to take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures should include:

- Using dry seasoned hardwood
- Storing wood in a dry well ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke

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

38. **On going condition - installation of pump fail alarms and protection of system and disposal area**

All pumps within the system are to have pump fail alarms that have light indicators and all pumps fail alarms are to be audible within habitable areas of the dwelling. The AWTS tank and disposal areas are to be protected from vehicle traveling over the tank and disposal area.

Reason: To ensure residents are alerted to pump failures within the system so that they can be corrected and protected the system and disposal area from damage from vehicles to maintain the system in working order.

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

Signed



Julie Edwards, Planner

The application is determined on 08/04/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments