

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |  |
|---|--|
| <b>Application Number:</b>                | DA2019/1008  |
| <b>Responsible Officer:</b>               | Kent Bull  |
| <b>Land to be developed (Address):</b>    | Lot 100 DP 1116580, 60 Palm Beach Road PALM BEACH NSW 2108 |
| <b>Proposed Development:</b>              | Construction of a swimming pool                            |
| <b>Zoning:</b>                            | E4 Environmental Living                                    |
| <b>Development Permissible:</b>           | Yes  |
| <b>Existing Use Rights:</b>               | No   |
| <b>Consent Authority:</b>                 | Northern Beaches Council                                   |
| <b>Land and Environment Court Action:</b> | No   |
| <b>Owner:</b>                             | Leslie Durno Matheson<br>Lyn Matheson                      |
| <b>Applicant:</b>                         | Paul Norman  |
| <b>Application Lodged:</b>                | 12/09/2019   |
| <b>Integrated Development:</b>            | No   |
| <b>Designated Development:</b>            | No   |
| <b>State Reporting Category:</b>          | Residential - Alterations and additions                    |
| <b>Notified:</b>                          | 24/09/2019 to 08/10/2019                                   |
| <b>Advertised:</b>                        | Not Advertised   |
| <b>Submissions Received:</b>              | 0  |
| <b>Clause 4.6 Variation:</b>              | Nil  |
| <b>Recommendation:</b>                    | Approval   |
| <b>Estimated Cost of Works:</b>           | \$ 267,980.00  |

### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a swimming pool.

### ASSESSMENT INTRODUCTION

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

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place

## SITE DESCRIPTION

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 100 DP 1116580 , 60 Palm Beach Road PALM BEACH NSW 2108  |
| <b>Detailed Site Description:</b> | <p>The subject site is known as 60 Palm Beach Road, Palm Beach and legally referred to as Lot 100 DP 1116580. The site consists of one (1) allotment located on the northern side of Palm Beach Road and the eastern side of Barrenjoey Road. Pedestrian and vehicular access is gained via a right of carriageway from Palm Beach Road.</p> <p>The site is irregular in shape with a combined frontage of 13.095m along the Palm Beach Road right of carriageway. The frontage along Barrenjoey Road is 44.365m. The depth of the site is approximately 70m east to west. The site has a surveyed area of 1457m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing two storey dwelling located centrally on the property.</p> <p>The slope of the site is 27.7% falling approximately 19.36m from the right of carriageway to the Barrenjoey Road frontage.</p> <p>The site contains an extensive coverage of native canopy trees including Cabbage Tree Palms. The site is also mapped within the Littoral Rainforest - Endangered Ecological Community.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by low-density residential dwellings in a landscaped/bushland</p> |

setting.

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

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

## APPLICATION HISTORY

24 September 2019

Site inspection undertaken by Development Assessment Officer. Property Owner present.

27 September 2019

Photo evidence provided by the Applicant of the notification sign being placed at the entrance of the right of carriageway along Palm Beach Road.

## 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 Matters for Consideration'  | Comments  |
|--|---|
| Section 4.15 (1) (a)(iii) – Provisions of any planning agreement   | None applicable.  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)  | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;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 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b></p>  |

| Section 4.15 Matters for Consideration'  | Comments  |
|--|---|
|  | <p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development                 | The site is considered suitable for the proposed development.   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report.   |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.   |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

| Internal Referral Body | Comments   |
|------------------------|--|
| Landscape Officer      | <p>Recommendations provided in the Arborist Report prepared by Urban Arbor dated 30/8/19 submitted with the application are noted.</p> <p>No objections are raised to the proposed development subject to conditions as recommended</p> <p><b>Planner Comments 15/10/2019:</b></p> <p>Following a discussion with Council's Landscape Officer, the conditions that had also been recommended by NECC (Bushland and Biodiversity) for certification of landscaping completion and tree planting were removed to ensure no duplication in the conditions of consent.</p> |
| NECC (Bushland and     | This application was assessed against Pittwater LEP Clause 7.6   |



| Internal Referral Body         | Comments  |
|--------------------------------|---|
| Biodiversity)                  | <p>Biodiversity and Pittwater DCP B4.17 Littoral Rainforest EEC.</p> <p>The proposal is for a new swimming pool and associated works.</p> <p>The submitted Arboricultural Impact Assessment Report (Urban Arbor, 30/08/2019) assesses 6 trees within the vicinity of the works. The proposal will result in the removal of one tree, T3 <i>Glochidion ferdinandi</i> which has been assessed as having low retention value and has previously been severely pruned. All other trees are to be retained and protected.</p> <p>To comply with biodiversity controls, replacement native canopy trees will be required as well as control of weeds.</p> <p>Council's Natural Environment - Biodiversity section raises no objections, subject to conditions.</p>   |
| NECC (Coast and Catchments)    | <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018</b></p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Further, the application does comply with the requirements of the coastal related clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> |
| NECC (Development Engineering) | <p>The site is located in Geotechnical Hazard H1 Areas, an "Acceptable Risk Management" level is achievable in accordance with the geotechnical report provided by White Geotechnical Group Pty Ltd.</p> <p>No objections are raised to the proposed development, subject to conditions.</p>  |

| Internal Referral Body | Comments |
|------------------------|----------|
|                        |          |

| 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. A353260, dated 12 September 2019).

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 development is unlikely to cause adverse impact to the integrity and resilience of the biophysical, hydrological (surface and ground water) and ecological environment, coastal environmental values and natural coastal process, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, underdeveloped lands and rock platforms. The proposed development does not restrict any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. A recommended condition will be placed to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities notified. The proposed development is not likely to cause an adverse impact to the use of the surf zone.

- (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 application has been referred to Council's NECC (Coast & Catchments) division that have raised no objections to the proposed development and recommended no additional conditions. As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause (1).

#### **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 development is not likely to cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunneling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The proposed development will also not have an adverse impact on the cultural and built environment heritage. It is considered that the proposed development has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact to the above mentioned cultural and environmental aspects. Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment.

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The application has been referred to Council's NECC (Coast & Catchments) division that have raised no objections to the proposed development and recommended no additional conditions. It is therefore considered that the proposed development is not likely to cause increased risk of coastal hazards on the subject site or other land.

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

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 5.1m     | -           | Yes      |

Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes                          |
| 4.3 Height of buildings                                  | Yes                          |
| 5.10 Heritage conservation                               | Yes                          |
| 7.1 Acid sulfate soils                                   | Yes                          |
| 7.2 Earthworks   | Yes                          |
| 7.6 Biodiversity protection                              | Yes                          |
| 7.7 Geotechnical hazards                                 | Yes                          |
| 7.10 Essential services                                  | Yes                          |

**Pittwater 21 Development Control Plan**

Built Form Controls

| Built Form Control  | Requirement       | Proposed        | % Variation* | Complies |
|---------------------|-------------------|-----------------|--------------|----------|
| Front building line | 6.5m              | >6.5m           | -            | Yes      |
| Rear building line  | 6.5m              | >6.5m           | -            | Yes      |
| Side building line  | 2.5m              | >2.5m           | -            | Yes      |
|                     | 1m (south-east)   | 1m              | -            | Yes      |
| Building envelope   | 3.5m (north-west) | Within envelope | -            | Yes      |
|                     | 3.5m (south-east) | Within envelope | -            | Yes      |
|                     |                   |                 |              |          |

|                 |                            |                            |   |     |
|-----------------|----------------------------|----------------------------|---|-----|
| Landscaped area | 60% (874.2m <sup>2</sup> ) | 67% (983.1m <sup>2</sup> ) | - | Yes |
|-----------------|----------------------------|----------------------------|---|-----|

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 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                         |
| A4.12 Palm Beach 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                         |
| B4.17 Littoral Rainforest - Endangered Ecological Community             | Yes                          | Yes                         |
| B5.4 Stormwater Harvesting  | Yes                          | Yes                         |
| B5.10 Stormwater Discharge into Public Drainage System                  | Yes                          | Yes                         |
| B5.12 Stormwater Drainage Systems and Natural Watercourses              | Yes                          | Yes                         |
| B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System) | Yes                          | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill              | Yes                          | Yes                         |
| B8.2 Construction and Demolition - Erosion and Sediment Management      | Yes                          | Yes                         |
| B8.3 Construction and Demolition - Waste Minimisation                   | Yes                          | Yes                         |
| B8.4 Construction and Demolition - Site Fencing and Security            | Yes                          | Yes                         |
| C1.1 Landscaping  | Yes                          | Yes                         |
| C1.2 Safety and Security  | Yes                          | Yes                         |
| C1.3 View Sharing   | Yes                          | Yes                         |
| C1.4 Solar Access   | Yes                          | Yes                         |
| C1.5 Visual Privacy   | Yes                          | Yes                         |
| C1.6 Acoustic Privacy   | Yes                          | Yes                         |
| C1.7 Private Open Space   | Yes                          | Yes                         |
| C1.13 Pollution Control   | Yes                          | Yes                         |
| C1.17 Swimming Pool Safety  | Yes                          | Yes                         |
| D12.1 Character as viewed from a public place                           | Yes                          | Yes                         |
| D12.3 Building colours and materials                                    | Yes                          | Yes                         |
| D12.5 Front building line   | Yes                          | Yes                         |
| D12.6 Side and rear building line                                       | Yes                          | Yes                         |
| D12.8 Building envelope   | Yes                          | Yes                         |
| D12.10 Landscaped Area - Environmentally Sensitive Land                 | Yes                          | Yes                         |
|   |                              |                             |

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| D12.13 Construction, Retaining walls, terracing and undercroft areas | Yes                          | Yes                         |
| D12.14 Scenic Protection Category One Areas                          | Yes                          | Yes                         |

#### Detailed Assessment

### **C1.5 Visual Privacy**

The location of the proposed swimming pool and associated decking does not raise concerns with regards to visual privacy or overlooking towards the private open space of 58 Palm Beach Road. It is therefore considered that no additional privacy measures are necessary.

### **D12.1 Character as viewed from a public place**

Due to the steeply sloping topography of the site and the retention of established native canopy trees, the proposed swimming pool and associated decking will be obscured when viewed from Barrenjoey Road. In this regard, the proposal is considered to meet the controls and outcomes of this clause.

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

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$2,680 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$267,980.

### **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 DA2019/1008 for Construction of a swimming pool on land at Lot 100 DP 1116580, 60 Palm Beach Road, PALM BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b> |              |                                       |
|--|--------------|---------------------------------------|
| <b>Drawing No.</b>   | <b>Dated</b> | <b>Prepared By</b>                    |
| RADD19035, P1 (Site Plan/Site Analysis Plan)               | June 2019    | Right Angle Design & Drafting Pty Ltd |
| RADD19035, P2 (Plan at Rear Yard)                          | June 2019    | Right Angle Design & Drafting Pty Ltd |
| RADD19035, P3 (Pool Plan and Sections)                     | June 2019    | Right Angle Design & Drafting Pty Ltd |
| RADD19035, P4 (Elevations)                                 | June 2019    | Right Angle Design & Drafting Pty Ltd |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |              |                     |
|---|--------------|---------------------|
| <b>Report No. / Page No. / Section No.</b>  | <b>Dated</b> | <b>Prepared By</b>  |
| Arboricultural Impact Assessment Report,  | 30 August    | Urban Arbor Pty Ltd |



|                                 |                   |                                       |
|---------------------------------|-------------------|---------------------------------------|
| Ref. 19/08/30/60PBRPB           | 2019              |                                       |
| Geotechnical Report, Ref. J2374 | 2 September 2019  | White Geotechnical Group Pty Ltd      |
| BASIX Certificate, Ref. A353260 | 12 September 2019 | Right Angle Design & Drafting Pty Ltd |

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:

| <b>Waste Management Plan</b>          |              |                                       |
|---------------------------------------|--------------|---------------------------------------|
| <b>Drawing No/Title.</b>              | <b>Dated</b> | <b>Prepared By</b>                    |
| RADD19035, P6 (Sediment Control Plan) | June 2019    | Right Angle Design & Drafting Pty Ltd |

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

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

## 2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and

- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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. Policy Controls**

#### **Northern Beaches 7.12 Contributions Plan 2019**

A monetary contribution of \$2,679.80 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$267,980.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

### **5. Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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](http://www.northernbeaches.nsw.gov.au)).

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group Pty Ltd dated 2nd September 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 7. **Trees and / or Landscaping**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

#### **(e) Existing trees which must be retained**

All trees not indicated for removal on the approved plans.

| <b>All Recommendations Arborist Report</b> |          |                     |
|--|----------|---------------------|
| Report Number                              | Dated    | Prepared By         |
| Arboricultural Impact Assessment Report    | 30/08/19 | Urban Arbor Pty Ltd |

Reason: To ensure compliance with the requirement to retain and protect significant plants and trees.

### 8. **Preparation of Landscape Plans**

Detailed Landscape Plans are to be prepared and certified by a qualified landscape architect, arborist or ecologist and are to include the following:



- the location of existing trees and vegetation to be retained, removed and/or planted. The structural root zone (SRZ) and tree protection zone (TPZ) of all existing trees must be indicated in accordance with Arboricultural Impact Assessment Report (Urban Arbor, 30/08/2019) and approved proposal plans.

- Provision of at least 3 locally native canopy trees are to be planted on site to replace trees approved for removal. Species are to have a minimum mature height of 8.5m and be chosen from as per native species found on the site or listed in Littoral Rainforest Endangered Ecological Community.

- A planting schedule comprising at least 80% of any new planting incorporates native vegetation (as per native species found on the site or listed in Littoral Rainforest Endangered Ecological Community). The planting schedule is to specify details including stratum, species/common names, quantities, pot sizes and staking details.

- The proposed finished treatment of garden areas, including soil depth and the location of retaining walls and underground services.

The Landscape Plan is to be certified in writing by a qualified landscape architect, arborist or ecologist, prior to issue of the Construction Certificate.

**Reason:** To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

9. **Engage a Project Arborist**

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the works. The Project Arborist is to implement pre-construction tree protection measures and direct supervision all works within 5m of significant trees.

Evidence demonstrating Project Arborist engagement is to be provided to the Principal Certifying Authority prior to the issue of Construction Certificate.

**Reason:** Tree protection in accordance with relevant Natural Environment LEP/DCP controls

10. **Compliance with Standards**

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

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

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

11. **Sydney Water "Tap In"**

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

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

- 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.

12. **Boundary Survey**

A boundary survey, prepared by a Registered Surveyor, shall be provided as evidence that all buildings/works are within the appropriate property, easement boundaries and rights of carriageway.

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

Reason: To ensure the accurate location of buildings in relation to boundaries, easements and rights of way.

### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Compliance with Arborist's Recommendations – Pre-construction**

All pre-construction tree protection measures specified in Arboricultural Impact Assessment Report (Urban Arbor, 30/08/2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with pre-construction measures is to be certified by the project arborist and details submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

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

14. **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.

15. **Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in Arboricultural Impact Assessment Report (Urban Arbor, 30/08/2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with these measures is to be certified by the project arborist in writing, including photographic evidence, and details submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason:** To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

16. **Implementation of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans and these conditions of consent. The new landscaping is to be certified in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of the Occupation Certificate.

**Reason:** To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

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

17. **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.

18. **Compliance with Arborist's Recommendations – During and Post-construction**

All tree protection measures to be implemented, as specified in Arboricultural Impact Assessment Report (Urban Arbor, 30/08/2019) and these conditions of consent are to be implemented at the appropriate stage of development.

Completion of arborist requirements and satisfactory establishment/initiation of post-construction measures is to be certified by the consulting arborist and details submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

19. **Replacement of Canopy Trees**

At least 3 locally native canopy trees are to be planted on site to replace trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with these conditions of consent. Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree. Replacement plantings are to be certified as complete and in accordance with these conditions of consent by a qualified landscape architect, arborist or ecologist and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

**Reason:** To establish appropriate landscaping in accordance with relevant Natural Environment LEP/DCP controls.

20. **Priority Weed Removal and Management**

All Priority weeds (as specified in Appendix 1 of the Greater Sydney Regional Strategic Weed Management Plan 2017 – 2022) on the site are to be removed and managed. Details demonstrating the removal and management of weeds are to be prepared by a qualified ecologist in writing and 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, in accordance with relevant Natural Environment LEP/DCP controls.

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

21. **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](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

22. **Replacement of Canopy Trees**

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

**Reason:** To replace locally native trees in accordance with relevant Natural Environment LEP/DCP controls.

23. **Retention of Natural Features**

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

**Reason:** To ensure the retention of natural features.

24. **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.

25. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

**Reason:** To protect Aboriginal Heritage.

26. **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.

27. **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

**Reason:** Wildlife protection

28. **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

**Reason:** Management of wildlife corridors

29. **Pool Filter Noise**

The maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level when measured from any adjoining premises.

Reason: To protect the amenity for adjoining properties.

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

**Signed**



**Kent Bull, Planner**

The application is determined on 16/10/2019, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**