

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0868
----------------------------	-------------

Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 14 DP 6746, 1158 Barrenjoey Road PALM BEACH NSW 2108 Lot 1 DP 795517, 1158 Barrenjoey Road PALM BEACH NSW 2108
Proposed Development:	Construction of a swimming pool
Zoning:	C4 Environmental Living SP2 Infrastructure
Development Permissible:	Yes - Zone SP2 Infrastructure Yes - Zone C4 Environmental Living
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Dayna Louise Le Messurier

Application Lodged:	10/07/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	18/07/2024 to 01/08/2024
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 347,453.70
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of the construction of a swimming pool and an external staircase.

Application History

Additional information was requested in relation to the front boundary setback and the location of the proposed swimming pool. Amended plans were provided adjusting the location and orientation of the proposed swimming pool. As the amendments resulted in a lesser environmental impact than the plans originally notified, the application was not required to be re-notified in accordance with Council's Community Participation Plan.

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 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 5.1 Relevant acquisition authority

Pittwater Local Environmental Plan 2014 - 5.1A Development on land intended to be acquired for public purpose

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D12.2 Scenic protection - General

Pittwater 21 Development Control Plan - D12.5 Front building line

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D12.14 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	<p>Lot 14 DP 6746 , 1158 Barrenjoey Road PALM BEACH NSW 2108</p> <p>Lot 1 DP 795517 , 1158 Barrenjoey Road PALM BEACH NSW 2108</p>
Detailed Site Description:	<p>The subject site consists of two (2) allotments located on the southern side of Barrenjoey Road.</p> <p>The site is irregular in shape with a frontage of 20.115m along Barrenjoey Road and a depth of 37.23m. The site has a surveyed area of 901.5m².</p> <p>The site is located within the C4 Environmental Living zone with a portion of the site zoned SP2 Infrastructure under the PLEP 2014. The site is currently occupied by a one and two</p>

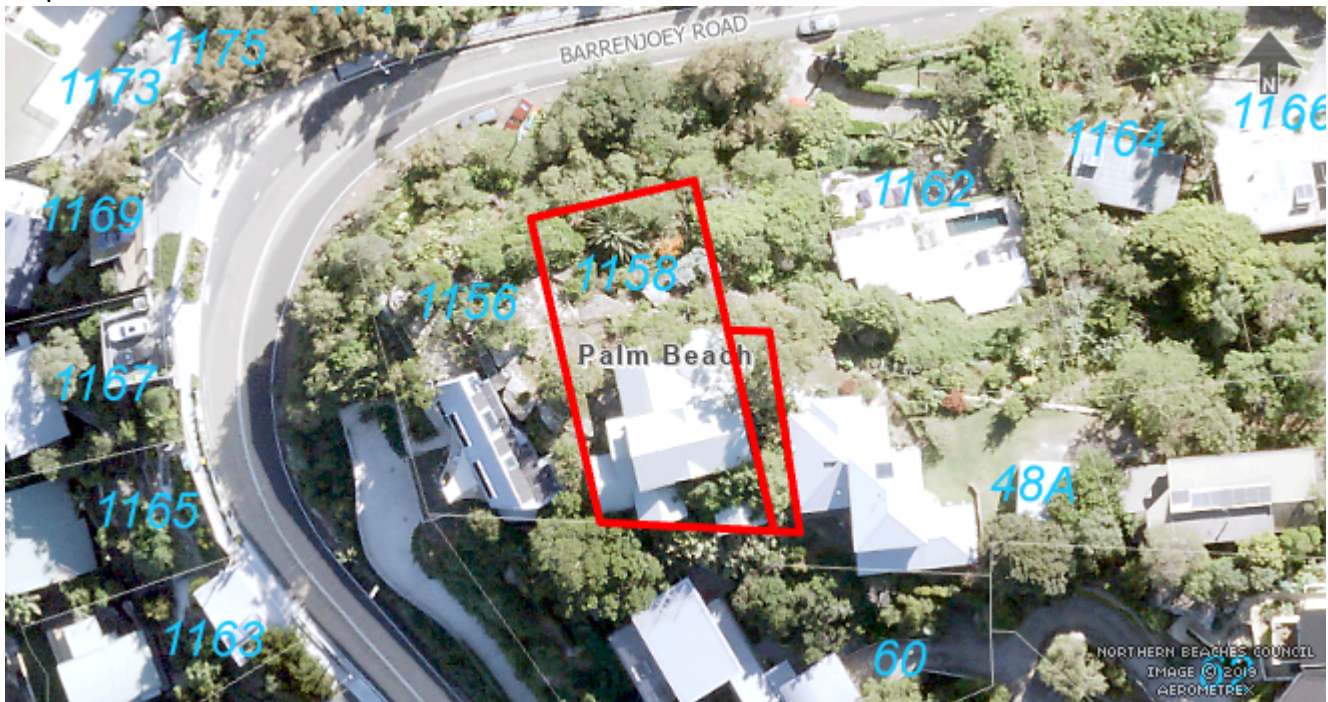
storey dwelling house.

The site slopes steeply down from the southern boundary towards the northern frontage.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential dwellings of varying sizes and styles.

Map:



SITE HISTORY

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

- **PLM2023/0168** - Pre-lodgement Meeting for Construction of a driveway, turning area, car parking and swimming pool. Held 18 January 2024.
- **BC2024/0868** - Building Information Certificate for unauthorised low sandstone and gabion retaining wall at rear of the property. Currently under assessment.

Pre-Lodgement Advice for the swimming pool:

- It would need to be demonstrated that the proposal minimises the non-compliances on the site - front building line, side building line, building envelope and landscaped area.
- The swimming pool should not be visible from the road, waterways or neighbouring properties. This may require the swimming pool to be reduced in size, pulled in from the boundaries and be constructed of colours and materials that blend into the natural environment.
- The site is also significantly deficient in the LOS. The swimming pool may need to be positioned and reduced in size to maintain/enhance the existing landscaped area on the site

and minimise the need to remove any additional vegetation.

- The proposal should be setback further from the front boundary to comply with the front building line requirements of the PDCP.

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	There are no current draft environmental planning instruments.
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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the front building line and pool location.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 18/07/2024 to 01/08/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Ms Sarah Juliet Sholl	48 A Sunrise Road PALM BEACH NSW 2108
Mr Richard Alan Benn Andrew Stuart Benn	1156 Barrenjoey Road PALM BEACH NSW 2108

The following issues were raised in the submissions:

- Bulk and Scale / Visual Impact
- View Loss
- Privacy
- Overdevelopment
- Construction Impacts

The above issues are addressed as follows:

- **Bulk and Scale / Visual Impact**

The submissions raised concerns regarding the elevated nature of the proposed pool and the extension of the northern edge beyond the lookout and outdoor living area at 1156 Barrenjoey Road. Concern is raised that the proposed landscape platform continues along the boundary at RL 41.07 whilst the natural ground drops to RL 39.00. This creates a +2m high boundary wall – which when combined with the 1.8m high fence on top, creates a vertical face of nearly 4m directly along the boundary.

The submissions note that the PLM notes state that *"The swimming pool will need to be designed and positioned to not be visible from the water, street and surrounding properties."* Concern is raised that the proposed pool will be visible from 48A Sunrise Road and due to the elevated nature, will also be visible from Pittwater and Barrenjoey. Additionally, the proposed pool does not comply with the required 10m front setback and there is not sufficient vegetation to screen the development. The submission also notes that the visual impact of the new stairway from the public view and private view needs to be sufficiently evaluated and suggests a less visually intrusive design.

Comment:

Amended plans have been provided adjusting the location and orientation of the proposed swimming pool. The proposed pool now provides a 10.4m front setback in excess of the requirements and is located more centrally within the site to reduce the visual impact. A condition is recommended requiring additional planting below the pool level to soften the undercroft of the structure along the northern elevation. This is to minimise the visual impact and soften the development when viewed from the waterway and street.

Additionally, the amendments result in the pool being sited closer to ground level at a point where the site is more level. When viewed from the western elevation, the proposed pool is only elevated a maximum 0.7m above ground level with a 1.8m high pool fence. The proposed development sits within the required building envelope ensuring minimal bulk and scale. Furthermore, the amended design ensures the proposed pool does not extend beyond the lookout and outdoor living areas at 1156 Barrenjoey Road.

The proposed new stairway is to replace the existing stone path to the street that is to be removed to accommodate the proposed pool. The balustrade to the stairs is necessary to meet Australian Standards and is of a slatted design that is as open as possible to minimise the visual impact. Additionally, the landscape plan indicates new plantings surrounding the stairs which assist with softening the structure.

- **View Loss**

The submissions raised concerns that the proposed boundary fence is 1.8m above a pool & landscape platform of RL 41.07, which will be 2.64m above the Lookout & Outdoor Living area at 1156 Barrenjoey Rd resulting in severe view loss.

Comment:

A detailed assessment on view loss is provided under C1.3 View Sharing of this report. In summary, the proposal is found to have a negligible impact on view sharing and is acceptable.

- **Privacy**

The submissions raised concerns that the northern edge of the pool and landscape platform overlooks outdoor living areas at 1156 Barrenjoey Road.

Comment:

A detailed assessment on privacy is provided under C1.5 of this report.

- **Overdevelopment**

The submissions raised concerns that the PLM notes state that the site is currently deficient in landscaped area and the development would further reduce landscaped area.

Comment:

A detailed assessment on landscaped area is provided under D12.10 of this report.

- **Construction Impacts**

The submissions raised concerns that the construction of the pool will de-stabilise the site and be dangerous and is concerned that measures recommended in the Geotechnical Report will not be followed. Concerns are also raised regarding the steep nature of the site which makes construction access and delivery of materials difficult. The period of construction and the required use of heavy machinery, storage of materials and workers will have a significant impact on traffic flow, parking, pedestrian access and public transport facilities, and no plan for the amelioration of these impacts is presented.

Comment:

Conditions are recommended that require the development to be undertaken in accordance with the Geotechnical Report and evidence provided prior to the issue of both the Construction Certificate and the Occupation Certificate. A condition is also recommended requiring a Construction Traffic Management Plan (CTMP) and report to be prepared by a Transport for NSW accredited person. The CTMP is to be submitted to and approved by Council's Traffic Team prior to the issue of the Construction Certificate. This ensures that construction access is appropriately planned and managed along with delivery of materials and equipment associated with the development.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for construction of a swimming pool adjoining the existing timber deck, construction of an external staircase and landscape works, as described in reports and as illustrated on plans.</p> <p>It is noted that the proposed landscape area is deficient and this matter shall be determined by the Assessing Planning Officer.</p> <p>A Arboricultural Impact Assessment (AIA) is submitted. The proposed works do not require removal of trees and proposed works occur upon disturbed land. The AIA reports on one existing Canary Island Palm located within 5 metres of proposed development works. It is noted that the tree is listed as an exempt species and may be managed without Council consent or otherwise as recommended in the AIA report. Other existing trees outside of 5 metres from development works are not assessed and conditions shall be imposed for the protection of all prescribed trees.</p> <p>A Landscape Plan is submitted and provides vegetation screening between the proposed swimming pool and the side boundary and no concerns are raised. However additional planting is required below the pool level to soften the under croft of the pool structure along the northern elevation. The pool sits approximately 3.5 metres above existing ground level along the northern elevation and planting is required (either under croft or forward of the structure within natural ground, and in between rock outcrops) to satisfy Pittwater DCP control D12.13 Construction, Retaining walls, terracing and under croft areas, where "Adequate landscaping shall be provided to screen under croft areas". Planting shall achieve a mature height of at least the equal to the top of pool / existing deck level.</p> <p>It is noted that the existing rock outcrops are maintained whereby the proposed swimming pool will sit level with the dwelling house and float above the existing rock outcrops.</p>
NECC (Bushland and Biodiversity)	<p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • SEPP (Resilience and Hazards) - Coastal Environment Area • NSW Biodiversity Conservation Act 2016 • Biosecurity Act 2015 • Pittwater LEP - Clause 7.6 Biodiversity Protection • Pittwater DCP - Clause B4.17 Littoral Rainforest - Endangered Ecological Community <p>The proposal will not require the removal of any trees. An arboricultural impact assessment has been submitted with the application and confirmed that T1 (Phoenix canariensis) will need to</p>

Internal Referral Body	Comments
	<p>be removed. No objections are raised as this is an exempt species which can be removed without Council's consent.</p> <p>The proposed landscaping proposal will have to be amended in order to comply with PDCP B4.17 where "Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Littoral Rainforest Endangered Ecological Community)."</p> <p>Furthermore, a number of priority weeds have been identified on site and will need to be removed. This will be conditioned.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, 2.11 & 2.12); • Relevant LEP and DCP clauses. <p>State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>The subject land has been included on the 'Coastal Environment Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Watermark Planning dated June 2024 the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed 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 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 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1753388_02 dated 22 August 2024).

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 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 consists of the construction of a swimming pool and external stairs that are sited wholly within the property boundaries. The proposal has been reviewed and supported by the Aboriginal Heritage Office, Council's Landscape Officer, Bushland and Biodiversity Officer and Coast and Catchments Officer. The proposed development is not likely to cause adverse impacts on the above matters.

- 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 subsection (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 proposed development is designed, sited and will be managed to avoid adverse impacts on the coastal environment.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - 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
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or 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 consists of the construction of a swimming pool and external stairs that are sited wholly within the property boundaries. The proposal has been reviewed and supported by the Aboriginal Heritage Office, Council's Landscape Officer, Bushland and Biodiversity Officer and Coast and Catchments Officer. The proposed development is designed, site and will be managed to avoid adverse impacts on the above matters.

Division 5 General

2.12 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 proposed development is not likely to cause increased risk of coastal hazards.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposal has been reviewed against all relevant legislation and policies.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone SP2: Yes Zone C4 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone SP2: Yes Zone C4 : Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	4.1m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.1 Relevant acquisition authority	Yes
5.1A Development on land intended to be acquired for public purpose	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

Detailed Assessment

Zone C4 Environmental Living

The underlying objectives of the C4 Environmental Living zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The proposed development consists of the construction of a swimming pool and external stairs that have been designed to be low-impact residential development.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The proposal has been amended to ensure the development does not have adverse effect on the special ecological, scientific or aesthetic values of the area.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The proposal consists of low density and scale ancillary residential development. The pool is sited close to ground level in a more level area and requires limited excavation. The resultant development is well integrated with the landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The proposal has been reviewed and supported by Council's Landscape Officer, Bushland and Biodiversity Officer and Coast and Catchments Officer. The development does not impact on riparian and foreshore vegetation and wildlife corridors.

5.1 Relevant acquisition authority

The north-western corner of the site is zoned SP2 Infrastructure. No development is proposed on this land.

5.1A Development on land intended to be acquired for public purpose

The north-western corner of the site is zoned SP2 Infrastructure. No development is proposed on this land.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
--------------------	-------------	----------	--------------	----------

Front building line	10m	Pool: 10.4m Stairs: 1.0m	N/A 90%	Yes No
Rear building line	6.5m	As Existing	N/A	No Change
Side building line	West - 2.5m	Pool: 3.5m	N/A	Yes
	East - 1m	Stairs: 2.1m-4.4m Pool: 9.1m	N/A N/A	Yes Yes
Building envelope	West - 3.5m	Within envelope	N/A	Yes
	East - 3.5m	Within envelope	N/A	Yes
Landscaped area	60%	48.7% (431.5m ²)	18.8%	No

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
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
B5.15 Stormwater	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.2 Scenic protection - General	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Merit consideration

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The views are obtained from the adjoining western property 1156 Barrenjoey Road. This property enjoys expansive water views to the north of Pittwater, Palm Beach, Lion Island and beyond. This property also enjoys sweeping water views to the south and south-west of Pittwater including the land and water interface of Snapperman Beach.



Figure 1 - View from lower outdoor area at 1156 Barrenjoey Road looking north



Figure 2 - View from upper lookout area at 1156 Barrenjoey Road looking north



Figure 3 - View from other outdoor living area at 1156 Barrenjoey Road looking south-west

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment to Principle 2:

The views to the north are obtained from the lookout and outdoor living areas of 1156 Barrenjoey Road. The views to the south are obtained from another outdoor living area. This property has an irregular orientation where both the northern and western boundaries adjoin Barrenjoey Road, therefore having 2 frontages. The views are obtained over both of these front boundaries.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Principle 3:

As above, the views are obtained in a northerly direction, southerly and south-westerly direction from 1156 Barrenjoey Road. The subject site is located to the east of this property and the proposed development is located to the east of the areas where the views are obtained from 1156 Barrenjoey Road. As such, the proposed development does not impact on any views available from 1156 Barrenjoey Road and the view loss is categorised as negligible.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

As the existing views from 1156 Barrenjoey Road remain unaffected, the view sharing is acceptable.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

The proposal maintains views and vistas from roads and public places to water, headland, beach and/or bush.

- *Canopy trees take priority over views.*

Comment:

The proposal does not require the removal of any canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.5 Visual Privacy

Submissions have raised concerns that the northern edge of the proposed pool and landscape platform overlooks the outdoor living areas of 1156 Barrenjoey Road.

The proposed pool has been amended to provide an increased front setback and the orientation rotated providing a greater western side setback. The pool coping is setback 3.5m from the western side boundary and is separated by a landscape platform including new plantings with a mature height of up to 5m. This provides screening for privacy between the proposed pool and adjoining western property. Additionally, the outdoor living areas at 1156 Barrenjoey Road and the subject site are separated by dense vegetation and large rock outcrops which will be retained and ensure further privacy. On the eastern side, the proposed pool is setback 9.1m from the coping which ensures sufficient spatial separation is provided to maintain a reasonable level of privacy.

D12.2 Scenic protection - General

Pre-lodgement advice was provided in PLM2023/0168 in relation to the proposed swimming pool. The following was advised in relation to D12.2 Scenic Protection - General:

The swimming pool should not be visible from the road, waterways or neighbouring properties. This may require the swimming pool to be reduced in size, pulled in from the boundaries and be constructed of colours and materials that blend into the natural environment.

The submissions have raised concerns that the proposed pool and stairs will be visible from Pittwater and Barrenjoey and the adjoining property 48A Sunrise Road. The below figures depict how the existing site is viewed.



Figure 4 - Existing view of the site from Barrenjoey Road



Figure 5 - Existing view of the site from 48A Sunrise Road

The proposal has reduced the size of the pool and relocated it closer to the existing deck and rotated the orientation. This provides a greater front setback to minimise the visual impact from the road and waterway. The road reserve adjoining the site and Barrenjoey Road is quite deep which provides over 25m of spatial separation between the proposed pool and Barrenjoey Road.

Additionally, the proposal has reduced the deck areas and a landscape platform introduced to separate the pool from the western side boundary. The finishes consist of timber decking and metal balustrades which complement the natural environment. The proposed pool provides compliant front and side setbacks and sits within the required building envelope. As such, the proposal has demonstrated that the visual impact of the development when viewed from the road, waterways and neighbouring properties has been minimised.

D12.5 Front building line

Detailed description of development

This control requires development to be setback a minimum 10.4m from the front boundary. The proposed swimming pool has been amended to provide a 10.4m front setback which complies. The proposed stairs are setback 1.0m from the front boundary and do not comply. It is important to note that the stairs provide direct street access with the Lot otherwise relying on a Right Of Carriageway.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *Achieve the desired future character of the Locality.*

Comment:

The proposed development maintains the low density residential nature of the area and is

integrated with the landform and landscape. The proposal achieves the desired future character of the Locality.

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

Comment:

The proposal maintains equitable preservation of views and vistas to and/or from public/private places.

- *The amenity of residential development adjoining a main road is maintained. (S)*

Comment:

The proposed stairs are well screened by existing vegetation and new plantings which ensures the amenity of residential development adjoining a main road is maintained. Additionally, the road reserve adjoining the site is quite deep providing further separation to Barrenjoey Road.

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

Comment:

The proposal does not require the removal of any trees or significant vegetation. New plantings are provided as part of the proposal and as recommended by the conditions to visually reduce the built form.

- *Vehicle manoeuvring in a forward direction is facilitated. (S)*

Comment:

The site currently does not have any vehicle access and is accessed via an inclinator and stone path. The proposed pool requires the removal of part of the stone path, and hence, the proposed stairs are to replace this. As such, the proposed stairs facilitate safe access to the site.

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

Comment:

The proposal has been reviewed and supported by Council's Bushland and Biodiversity Officer ensuring the bushland character is preserved.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The proposed stairs integrate with the existing pedestrian path from Barrenjoey Road. The proposed stairs are located as close to ground level as possible and are designed with metal balustrades that provide an open appearance. As such, the proposed stairs are minor in scale and are in keeping with the height of the natural environment.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The proposed stairs facilitate improved pedestrian amenity as the site does not have any vehicle access.

- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment:

The proposed stairs are designed in response to the sloping topography of the site and sit alongside the existing inclinator. This ensures new development sensitively relates to the spatial characteristics of the existing urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.10 Landscaped Area - Environmentally Sensitive Land

Detailed description of non-compliance

This control requires at least 60% of the site area to be landscaped.

Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:

- impervious areas less than 1 metre in width (e.g. pathways and the like);
- for single dwellings on land zoned R2 Low Density Residential or C4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).

The proposal provides 48.7% (431.5m²) landscaped area including the above variation permitted for the existing deck areas.

A portion of the site is zoned SP2 Infrastructure and is not subject to this control and subsequently this area has been removed from the site area for the purpose of the landscape calculation. Additionally, it is noted that there is an existing non-compliance with this control to which the proposal only reduces the landscaped area by 36.95m² to accommodate the proposed pool and stairs.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows

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

Comment:

The proposal maintains the low density and scale residential nature of the area and is integrated with the landform and landscape. The proposal therefore achieves the desired future character of the Locality.

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

Comment:

The proposed swimming pool has been amended to provide compliant front and side setbacks and is pulled in from the site boundaries. The proposed pool and stairs are sited as close to ground level as possible to minimise bulk and scale of the built form.

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

Comment:

The orientation of the site ensures a reasonable level of solar access is provided and maintained. The proposal provides substantial spatial separation to adjoining properties and new landscape plantings to assist with maintaining amenity.

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

Comment:

The proposal is accompanied by an Arboricultural Impact Assessment stating that no trees are required to be removed and the works occur upon disturbed land. The Landscape Plan provides vegetation screening between the pool and the western side boundary and adjoining the stairs. A condition is recommended requiring additional planting below the pool level to soften the undercroft of the pool along the northern elevation. Evidently, sufficient vegetation is retained and enhanced to visually reduce the built form.

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

Comment:

The proposal has been reviewed and supported by Council's Landscape Officer and Bushland and Biodiversity Officer subject to the recommended conditions requiring additional planting and native vegetation. This ensures the conservation of natural vegetation and biodiversity.

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

Comment:

The proposal is not likely to impact on stormwater runoff, soil erosion and siltation of natural drainage channels.

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

Comment:

The proposal retains existing canopy trees to preserve the bushland character of the area.

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

Comment:

The proposal does not increase the impervious area of the site by more than 50m² therefore not requiring OSD. As such, sufficient soft surface is retained to provide for infiltration of water to the water table, minimise runoff and assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.14 Scenic Protection Category One Areas

The proposed development incorporates new plantings as per the Landscape Plan and the recommended conditions requiring screen planting between structures and boundaries facing waterways. The proposal does not require the removal of any trees and is supported by an Arboricultural Impact Assessment demonstrating minimal impacts to existing vegetation. The proposed development is sited upon disturbed land and retains existing canopy trees. Lastly, the proposed finishes include timber decking and metal balustrades which are dark and earthy materials.

Therefore, the proposal complies with the requirements of this clause.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$3,475 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$347,454.

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 2021;
- 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 DA2024/0868 for Construction of a swimming pool on land at Lot 14 DP 6746, 1158 Barrenjoey Road, PALM BEACH, Lot 1 DP 795517, 1158 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-102	H	Demolition & Waste Management Plan	Wray and Cutcliffe Architects	30 August 2024
DA-110	H	Proposed Site and Pool Plan	Wray and Cutcliffe Architects	30 August 2024
DA-301	H	Proposed Long Section AA	Wray and Cutcliffe Architects	30 August 2024
DA-401	H	Proposed Northern Elevation	Wray and Cutcliffe Architects	30 August 2024
DA-402	H	Proposed Eastern Elevation	Wray and Cutcliffe Architects	30 August 2024

DA-403	H	Proposed Western Elevation	Wray and Cutcliffe Architects	30 August 2024
DA-502	H	Landscape Plan and Schedule	Wray and Cutcliffe Architects	30 August 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. A1753388_02	-	Wray and Cutcliffe Architects	22 August 2024
Arboricultural Impact Assessment	v2	Arbor Express	20 May 2024
Geotechnical Assessment	2	AscentGeo Geotechnical Consulting	27 June 2024

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

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated
Aboriginal Heritage Office	AHO Referral Response	14 August 2024

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

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

3. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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 Certifier 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 Certifier 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 Certifier 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.

4. 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.
- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) 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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$3,474.54 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 (as amended).

The monetary contribution is based on a development cost of \$347,453.70.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 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 Certifier 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

8. Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Littoral Rainforest Endangered Ecological Community).

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

Reason: To maintain and replace habitat on the site.

9. 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 referenced in Condition 1 of this consent 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 Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

10. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent. All works are to be contained wholly within the property boundaries.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

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 Certifier 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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

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

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

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

13. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.

- Demonstrate that direct access from a public space/road is not viable for each stage of works.
- An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
- Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
- No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
- How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom’s ‘Managing Urban Stormwater: Soils and Construction’ (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

DURING BUILDING WORK

15. Protection of Rock and Sites of Significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works. Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council (MLALC) are to be contacted.

Reason: Preservation of significant environmental features.

16. Tree and Vegetation Protection

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

- i) all prescribed trees within the site, or otherwise existing trees nominated for retention on the approved plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of a Arboricultural Impact Assessment or a Project Arborist,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; 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; and structures are to bridge tree roots at or >25mm (Ø) diameter,
- iii) the activities listed in section 4.2 of AS4970-2009 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,
- iv) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- v) 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.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken as compliant to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

17. Wildlife Protection

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

Reason: To protect native wildlife.

18. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

19. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

20. **Survey Certificate**

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

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

21. **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 Certifier.

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

22. **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

23. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

24. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions,
- c) additional planting is required to either under or along the pool structure across the northern elevation (either to the undercroft or forward of the structure within natural ground, and in between rock outcrops). Selected planting shall achieve a mature height of at least the equal to the top of pool / existing deck level, and shall be installed at minimum 900mm intervals and at a minimum 200mm container size at planting,
- d) all planting shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- e) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

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

Reason: Environmental amenity.

25. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

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

26. Priority Weed Removal and Management

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

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

27. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

28. Waste Management Confirmation

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

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

29. **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 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

30. **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.

The approved landscape area shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

31. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

32. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

33. **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.

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

Signed



Olivia Ramage, Planner

The application is determined on 13/09/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments