

DEVELOPMENT APPLICATION ASSESSMENT REPORT

| | |
|----------------------------|-------------|
| Application Number: | DA2018/1892 |
|----------------------------|-------------|

| | |
|---|---|
| Responsible Officer: | Seth Dias |
| Land to be developed (Address): | Lot 1 DP 900658, 7 Pavilion Street QUEENSCLIFF NSW 2096 |
| Proposed Development: | Demolition works and construction of a swimming pool |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | James David O'Leary Megan Oi Qwan Chan O'Leary |
| Applicant: | James David O'Leary |

| | |
|----------------------------------|---|
| Application lodged: | 29/11/2018 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 05/12/2018 to 11/01/2019 |
| Advertised: | Not Advertised |
| Submissions Received: | 2 |
| Recommendation: | Approval |

| | |
|---------------------------------|---------------|
| Estimated Cost of Works: | \$ 108,000.00 |
|---------------------------------|---------------|

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B13 Coastal Cliffs setback

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot 1 DP 900658 , 7 Pavilion Street QUEENSCLIFF NSW 2096 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the north eastern side of Pavilion street.</p> <p>The site is irregular in shape with an angled frontage of 17.33m along Pavilion street and a depth of 43.18m along the northern boundary and 50.54 along the southern boundary. The site has a surveyed area of 910.4m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house.</p> <p>The site falls by an average of 18% from west to east, before a sheer cliff into the water.</p> <p>The site has some planter boxes, shrubbed areas and a small garden area along the southern boundary.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by other dwelling houses with multiple different architectural styles.</p> |

Map:



SITE HISTORY

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

- DA2010/1007 - Alterations & additions to a dwelling house
- DA2010/1194 - Alterations and additions to a dwelling house, construction of a swimming pool and new front fencing
- DA2017/0040 - Alterations and Additions to existing dwelling house
- DA2018/0612 - Alterations and additions to a dwelling house

PROPOSED DEVELOPMENT IN DETAIL

The Development Application seeks to demolish an existing swimming pool and part of an outdoor terrace area and replace it with a larger swimming pool in the same location. Existing terrace areas will also be retiled under this application.

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 | Warringah 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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 4.15 (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 Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental</p> |

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| | <p>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 | <p>See discussion on “Notification & Submissions Received” in this report.</p> <p>Note: Submissions may be removed from the online page dependent on circumstances surrounding the content of the submission or the submitter.</p> |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

| Name: | Address: |
|-----------------------|--|
| Withheld | CROMER NSW 2099 |
| Ms Elyane Joy Messara | 9 Pavilion Street QUEENSCLIFF NSW 2096 |

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

- Incorrectly calculated Landscaped Open Space and other inaccuracies on the Development Application statement of Environmental Effects and Plans
- Views loss for neighbouring properties
- Over-development on the site and its impact general amenity for the area
- An ongoing appeal at the Land and Environment court

The matters raised within the submissions are addressed as follows:

- Incorrectly calculated Landscaped Open Space and other inaccuracies on the Development Application statement of Environmental Effects and Plans

Comments:

The submission outlines concerns with the landscaped area on the site. While there are minor inconsistencies on the site plan, the Development Application still meets the requirements of control D1 of the Warringah Development Control and as such is permissible in this instance.

- Concerns over access to views have been raised in a submission

Comments:

The development is almost exclusively at the existing terrace ground level and will have no implication on surrounding views

- Concerns about over-development and constant development affecting the general amenity of the area have been raised as concerns

Comments:

Councils has attached conditions to all Development Consents to ensure that general amenity of an area is maintained as best as possible before, during and after construction in order to protect all people who live within the area. As long as development is within council policy and the relevant planning controls, and all conditions of consent are met and followed then development cannot be refused.

- Concerns over another application currently being reviewed at the Land and Environment Court were also raised

Comments:

Any application on this property that is currently being reviewed by the Land and Environment Court is a separate matter and unrelated to this Development Application, as such council will not stop assessing development on this property unless it is substantially similar to any application in court.

MEDIATION

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

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|---|
| NECC (Bushland and Biodiversity) | <p>Council's Bushland and Biodiversity section considers the Development Application to be consistent with the following Warringah DCP 2011 Controls:</p> <p>Part E The Natural Environment E1 Preservation of Trees or Bushland Vegetation E2 Prescribed Vegetation E4 Wildlife Corridors</p> |

| Internal Referral Body | Comments | | | |
|--|---|--|----|--|
| | E5 Native Vegetation E6 Retaining Unique Environmental Features E7 Development of Land Adjoining Public Open Space | | | |
| NECC (Coast and Catchments) | The proposed has been assessed to comply with SEPP Coastal Management and is supported without condition. It is not likely to alter coastal processes to the detriment of the environment or other land and is not likely to reduce public amenity or existing access to and use of the foreshore. The recommendations in the Geotechnical report prepared by JK Geotechnics (19 November 2019) and submitted with the application are to be incorporated into the development. | | | |
| NECC (Riparian Lands and Creeks) | This referral will be completed by the Coastal team. No comment required by the Catchment team. | | | |
| Strategic and Place Planning (Heritage Officer) | HERITAGE COMMENTS | | | |
| | Discussion of reason for referral | | | |
| | The proposal has been referred to Heritage as the subject property is within a heritage conservation area C13 - Coastal Cliffs Queenscliff (Heritage Conservation Area) | | | |
| | Details of heritage items affected | | | |
| | C13 - Coastal Cliffs Queenscliff <u>Statement of Significance</u> The Queenscliff-Freshwater headland cliffs have existence value as a major coastline promontory, protecting adjacent beaches and estuarine lagoon and providing dramatic landforms and viewing points. <u>Physical Description</u> The Queenscliff-Freshwater Cliffs are high, steep, and much sheared, with substantial talus deposits on the rock platform at their base. They are higher and steeper on their northern side, where they abut deep water, and lower and more benched on the Queenscliff side | | | |
| | Other relevant heritage listings | | | |
| | <table border="1"> <tr> <td data-bbox="512 1653 853 1800">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="853 1653 944 1800">No</td> <td data-bbox="944 1653 1439 1800"></td> </tr> </table> | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | |
| | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | |
| <table border="1"> <tr> <td data-bbox="512 1800 853 1874">Australian Heritage Register</td> <td data-bbox="853 1800 944 1874">No</td> <td data-bbox="944 1800 1439 1874"></td> </tr> </table> | Australian Heritage Register | No | | |
| Australian Heritage Register | No | | | |
| <table border="1"> <tr> <td data-bbox="512 1874 853 1948">NSW State Heritage Register</td> <td data-bbox="853 1874 944 1948">No</td> <td data-bbox="944 1874 1439 1948"></td> </tr> </table> | NSW State Heritage Register | No | | |
| NSW State Heritage Register | No | | | |
| <table border="1"> <tr> <td data-bbox="512 1948 853 2022">National Trust of Aust (NSW) Register</td> <td data-bbox="853 1948 944 2022">No</td> <td data-bbox="944 1948 1439 2022"></td> </tr> </table> | National Trust of Aust (NSW) Register | No | | |
| National Trust of Aust (NSW) Register | No | | | |
| <table border="1"> <tr> <td data-bbox="512 2022 853 2134">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="853 2022 944 2134">No</td> <td data-bbox="944 2022 1439 2134"></td> </tr> </table> | RAIA Register of 20th Century Buildings of Significance | No | | |
| RAIA Register of 20th Century Buildings of Significance | No | | | |

| Internal Referral Body | Comments | | |
|------------------------|---|----|--|
| | Other | No | |
| | Consideration of Application | | |
| | <p>The proposal seeks consent for the replacement of an existing pool, new fencing and works to the existing terraces at the rear of the property including new tile work and reconfigured steps. While the replacement pool is larger than the existing pool, the proposal is considered to not impact upon the heritage significance of the coastal cliffs as it locates the pool above the cliff edge preserving their dramatic impact when viewed from the ocean. Thus Heritage raises no objections to the proposal and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of WLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p> | | |
| | Further Comments | | |
| | COMPLETED BY: Brendan Gavin, Strategic Planner | | |
| | DATE: 12 December 2018 | | |

| 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 71 - Coastal Protection

| | |
|--|-----|
| Matters for Consideration | |
| Is the development located in an area identified as being within: | |
| 100m of the coastline mean high water mark? | Yes |
| A Sensitive Coastal Location under SEPP 71? | No |
| A Zone of Wave Impact under WLEP 2000? | No |
| A Zone of Slope Adjustment under WLEP 2000? | No |
| A Reduced Foundation Capacity under WLEP 2000? | No |
| <p>Within an area identified under the report entitled Review of Coastline Hazard Lines for Collaroy-Narrabeen Beach and Fishermans Beach prepared by WorleyParsons Issue 8, July 2009 as being subject to coastal impact?</p> <p>Note: Prior to any consideration of the proposed development it should be noted that Coastal Processes are constantly changing. Statutory Planning processes however, cannot be varied at the same rate. Notwithstanding, Council has recently received a report entitled Review of Coastline Hazard Lines for Collaroy-Narrabeen Beach and Fishermans Beach prepared by WorleyParson Issue 8, July 2009 to review the Coastal Hazard Zones and potential impacts of coastal processes, such as erosion, rising sea levels and large storm events.</p> <p>Whilst Warringah Local Environment Plan 2011 stipulates legislative provisions for consideration, this report provides additional information which has been brought to Council’s attention.</p> <p>Accordingly, pursuant to s79C (b), (c) & (e) under the Environmental Planning Assessment Act 1979 consideration of this report will be given to aid in the interpretation of the current controls and any recommendations provided there after to help determine the likely impacts upon the natural and built environments, the suitability of the site for development and the public interest.</p> <p>(Note: the report will not be given determining</p> | No |

weight as it is not legislated unlike the existing provisions under WLEP 2011.)

Requirements under SEPP 71 – Coastal Protection

The proposal has been identified as being located within a Sensitive Coastal Location as identified on the Coastal Zone map gazetted on the 18 November 2005. Accordingly, pursuant to Section 79C (a)(i) of the Environmental Planning and Assessment Act 1979, the provisions of State Environmental Planning Policy No.71 – Coastal Protection are to be considered.

Only the relevant sections of State Environmental Planning Policy No.71 – Coastal Protection to be considered by the Natural Environment Unit are identified below. It must be noted that all other provisions may apply to the subject site and should be considered prior to the determination of the Development Application.

| Assessment Consideration | Assessment Acceptability | Further Assessment Comment |
|---|--------------------------|---|
| <p>Is the development acceptable with regard to the SEPP 71 Policy aims to be considered by Natural Environment Unit detailed as follows:</p> <p><i>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and...</i></p> <p><i>(f) to protect and preserve beach environments and beach amenity, and</i></p> <p><i>(g) to protect and preserve native coastal vegetation, and</i></p> <p><i>(h) to protect and preserve the marine environment of New South Wales, and</i></p> <p><i>(i) to protect and preserve rock platforms, and</i></p> <p><i>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and...</i></p> <p><i>(l) to encourage a strategic approach to coastal management.</i></p> | <p>Yes</p> | |
| <p>Does the development implement measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the</p> | <p>No</p> | <p>The proposed works are located on an already developed part of the site (the outdoor terrace area in the rear part of the site). This means that no special conditions are</p> |

| Assessment Consideration | Assessment Acceptability | Further Assessment Comment |
|---|--------------------------|---|
| meaning of that Act), and their habitats? | | needed. |
| Does the development implement measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats? | No | The development will have no impact on marine environment as the property is significantly above the water. Hence, no special conditions have are required in this respect. |
| Does the development take into consideration existing wildlife corridors and the impact of development on these corridors? | Yes | The proposed works are on a already developed portion of the site. There will be very little change to the existing form of the site. |
| Are the likely impact of coastal processes and coastal hazards on the development and any likely impacts of the development on coastal processes and coastal hazards acceptable? | Yes | |
| Are the likely impacts of development on the water quality of coastal waterbodies acceptable? | Yes | |
| <p>Is the development acceptable with regard to:</p> <p><i>(i) the cumulative impacts of the proposed development on the environment, and</i></p> <p>(ii) measures to ensure that water and energy usage by the proposed development is efficient</p> | Yes | |
| <p>Does the development, include a non-reticulated system? Yes/No</p> <p>If Yes:</p> <p>Will the system, or is likely to, result in a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body</p> | No | |

| Assessment Consideration | Assessment Acceptability | Further Assessment Comment |
|---|--------------------------|----------------------------|
| of water, or a rock platform? | | |
| Does the development seek consent, or result in, untreated stormwater being discharged into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform? | No | |

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.

Warringah Local Environmental Plan 2011

| | |
|--|-----|
| 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 | 1.8m | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| 2.7 Demolition requires consent | Yes |
| 4.3 Height of buildings | Yes |
| 4.6 Exceptions to development standards | Yes |
| 5.3 Development near zone boundaries | Yes |
| 5.5 Development within the coastal zone | Yes |
| 5.8 Conversion of fire alarms | Yes |
| 5.10 Heritage conservation | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |
| Schedule 5 Environmental heritage | Yes |

Warringah Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---|---------------------------|--|--------------|------------------------|
| B1 Wall height | 7.2m | 1.2m (proposed pool gate) | N/A | Yes |
| B3 Side Boundary Envelope | 5m | Within | N/A | Yes |
| | 5m | Within | N/A | Yes |
| B5 Side Boundary Setbacks | 0.9m | 0.1m proposed tiling and pool heater 1.2 existing dwelling house 3.4 Proposed swimming pool | N/A | No Yes |
| | 0.9m | 0m Existing dwelling house 0m Proposed fence 0.1m proposed tiling 2.9m proposed stairs 11.2m proposed pool | N/A | No No Yes Yes |
| B7 Front Boundary Setbacks | 6.5m | 11.2m | N/A | Yes |
| B9 Rear Boundary Setbacks | 6m | N/A | N/A | N/A |
| B13 Coastal Cliffs Setback | Identified on setback map | Encroaches within setback area | N/A | No* |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% | 43% | N/A | Yes |

* See detailed assessment for discussion of encroachment

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| B1 Wall Heights | Yes | Yes |
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | Yes | Yes |
| B7 Front Boundary Setbacks | Yes | Yes |
| B13 Coastal Cliffs setback | No | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | Yes | Yes |
| C5 Erosion and Sedimentation | Yes | Yes |
| C6 Building over or adjacent to Constructed Council Drainage Easements | Yes | Yes |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |
| D1 Landscaped Open Space and Bushland Setting | Yes | Yes |
| D2 Private Open Space | Yes | Yes |
| D3 Noise | Yes | Yes |
| D6 Access to Sunlight | Yes | Yes |
| D7 Views | Yes | Yes |
| D8 Privacy | Yes | Yes |
| D9 Building Bulk | Yes | Yes |
| D10 Building Colours and Materials | Yes | Yes |
| D11 Roofs | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D16 Swimming Pools and Spa Pools | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| D22 Conservation of Energy and Water | Yes | Yes |
| E1 Preservation of Trees or Bushland Vegetation | Yes | Yes |
| E2 Prescribed Vegetation | Yes | Yes |
| E4 Wildlife Corridors | Yes | Yes |
| E5 Native Vegetation | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E7 Development on land adjoining public open space | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |

Detailed Assessment

B13 Coastal Cliffs setback

Description of inconsistency

The proposed development encroaches into the coastal cliffs setback area

Merit consideration:

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

- *To limit the bulk and scale of highly exposed cliff top development.*

Comment:

The proposed development is at the existing terrace ground level. The new fence will be the only part of the development that is above ground level. As there is an existing pool fence that is being replaced, the proposed development will not result in a major difference from what is already present on the site.

- *To maintain the scenic quality of the cliffs.*

Comment:

The pool is being built on an existing terrace area, it will have a very minor impact on the scenic quality of the cliffs as it is on an already built form. The existing terrace already partially encroaches into the coastal cliffs setback area.

- *To ensure views are maintained from the land to which the Coastal Cliffs setback applies.*

Comment:

As discussed earlier, the pool is at the existing terrace ground level. it will not obstruct any views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

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 Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

| | | |
|--|------------------|----------------|
| Northern Beaches Council Contributions Plan 2018 | | |
| Contribution based on a total development cost of \$ 108,000 | | |
| Contributions | Levy Rate | Payable |
| Total Section 7.12 Levy | 0.45% | \$ 486 |
| Section 7.12 Planning and Administration | 0.05% | \$ 54 |
| Total | 0.5% | \$ 540 |

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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1892 for Demolition works and construction of a swimming pool on land at Lot 1 DP 900658, 7 Pavilion Street, QUEENSCLIFF, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| Zone A Detail Plan Rev. C | 01/11/2018 | Serenescapes |
| Zone B Detail Plan Rev. C | 01/11/2018 | Serenescapes |
| Sectional Elevation A-A and B-B Rev. C | 01/11/2018 | Serenescapes |
| Sectional Elevation C-C and D-D Rev. C | 01/11/2018 | Serenescapes |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|---------------|----------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Statement of Environmental Effects | November 2018 | Nolan Planning Consultants |
| Geotechnical Assessment | 19/11/2018 | JK Geotechnic |

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

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

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

| Landscape Plans | | |
|---|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| Site Plan / Overflow Relief Gully / Sediment Fence Detail / Landscaped Area Diagram | 01/11/2018 | Serenescapes |

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

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

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

2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

Reason: Legislative Requirement

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

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

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

| | | |
|--|------------------|----------------|
| Northern Beaches Council Section 7.12 Development Contributions Plan | | |
| Contribution based on a total development cost of \$ 108,000.00 | | |
| Contributions | Levy Rate | Payable |
| Total Section 7.12 Levy | 0.45% | \$ 486.00 |
| Section 7.12 Planning and Administration | 0.05% | \$ 54.00 |
| Total | 0.5% | \$ 540.00 |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Northern Beaches Council Contributions Plan 2018.

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).

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

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

6. Compliance with Standards

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

Standards.

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

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

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

Signed



Seth Dias, Planner

The application is determined on 18/03/2019, under the delegated authority of:



Alex Keller, Acting Development Assessment Manager