

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0214
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<b>Responsible Officer:</b>	Georgia Quinn
<b>Land to be developed (Address):</b>	Lot C DP 408151, 46 A Irrubel Road NEWPORT NSW 2106
<b>Proposed Development:</b>	Construction of a swimming pool, boat parking area and earthworks
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Alison Joy Cutler Jonathon Norman Cutler
<b>Applicant:</b>	Serenescapes Landscape Designs Pty Ltd

<b>Application lodged:</b>	05/03/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Other
<b>Notified:</b>	08/03/2019 to 26/03/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 116,825.00
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### ASSESSMENT INTRODUCTION

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

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - B4.6 Wildlife Corridors

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

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

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

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot C DP 408151 , 46 A Irrubel Road NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Irrubel Road.</p> <p>The site is irregular in shape, given the lengthy battleaxe handle that extends off Irrubel Road. The site has a frontage of 4.6m along Irrubel Road (battleaxe handle) and a width of 35.6m running parallel to Irrubel Road. The site has a surveyed area of 1060.8m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a one and two storey dwelling house.</p> <p>The site has a cross fall from east to west of approximately 7.9m.</p> <p>The site is vegetated in the rear portion and a natural water course is located partially within and beyond the rear boundary.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by similar low density residential development within landscaped settings.</p>

Map:



## SITE HISTORY

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

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

## PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a swimming pool, retaining walls and associated landscape works.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A 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.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, 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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<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>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration'	Comments
	economic impact on the locality considering the nature of the existing and proposed land use.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Bush Fire Planning Services, dated 14 February 2019). The report stated that the bushfire attack level of the site is “Flame Zone”.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing trees and vegetation, and the completion of landscaping.</p> <p>Council’s Landscape section has assessed the proposal against the following Pittwater21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation</p>



Internal Referral Body	Comments
	<p>C1.1 Landscaping C1.5 Visual Privacy D10 Newport Locality</p> <p>A Landscape Plan is provided generally satisfying DA Lodgement Requirements, subject to conditions of consent to satisfy C1.1 Landscaping, including tree canopy planting in the garden and turf areas of the rear yard, and replanting within the watercourse area.</p> <p>A Arboricultural Impact Assessment is provided with the application, satisfying DA Lodgement Requirements.</p> <p>The recommended removal of T1 - Broadleaf Paperbark is subject to confirmation of its location by survey. T1 is not recorded on the Survey, and as T1 is located along the side fencing, ownership may be shared between No. 44 and No. 46A.</p> <p>Approval for removal of T1 is subject to verification of location by a registered Surveyor, and subject to owner's consent from No.44 should T1 be located on common boundary.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the Biodiversity Conservation Act, SEPP Coastal Management, Pittwater LEP 7.6, and DCP B4.6 and B4.22.</p> <p>The proposal includes a swimming pool and removal of six native trees (one <i>Melaleuca</i> (T1) and five <i>Cyathea cooperi</i> (T10-T14) and two exempt species. An Arborist report is provided that assesses 9 trees (T1 through to T9). The location of T1 <i>Melaleuca quinquenervia</i> is not identified on the survey. L-01 shows T1 is located adjacent the driveway, on the border of the neighbour's property to the east (44 Irrubel Rd). The Arborist report shows T1 located more toward the neighbour's property. It is noted that Owners consent is required prior to its removal being approved. The Arborist report concludes that T1 should be removed due to "the tree is unsuitable in this location due to expected future growth". Removal of the tree is supported subject to owners consent from the neighbour and replacement planting with 3 locally native canopy trees on the site. The Proposed Plant Schedule (L-02) shows 3 Blueberry Ash planted 2.3m apart and in close proximity to the swimming pool. The proposed planting is inconsistent with the dimensions of DCP C1.1, and indicates the trees will not reach their mature height (8m) to constitute a canopy tree. A condition will be imposed for a revised Landscape Plan.</p> <p>The entire site is within the SEPP Littoral Rainforest buffer area, and a small portion of the rear north-western corner of the site is on the SEPP Littoral rainforest map and the Biodiversity Values map. This portion extends approximately 2m east along the northern boundary and 2m south along the western boundary. The proposed works are outside of the BV map area, thus the Biodiversity Offset Scheme is not triggered. The application however is subject to the</p>

Internal Referral Body	Comments
	<p>revisions of the SEPP Coastal Management Section 11. The proposal includes the removal of five <i>Cyathea cooperi</i> (T10-T14 tree ferns). Whilst the Arborist report did not assess these trees "due to the steepness of terrain within their vicinity", the report concludes these trees are in good health, but cannot be retained due to the proposed retaining wall constituting a major TPZ encroachment. The proposed removal of the non-locally native tree ferns are supported subject to replacement planting with locally native <i>Cyathea australis</i> downslope of the new retaining wall.</p>
NECC (Development Engineering)	<p>The site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achievable in accordance with the geotechnical report provided by White geotechnical group Consultants. No OSD will be required.</p> <p>No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>The application has been assessed under the SEPP (Coastal Management) 2018, and Pittwater 21 DCP B5.13 Development on Waterfront Land and the Natural Resource Access Regulator's <i>Guidelines for controlled activities on waterfront land</i>.</p> <p>The proposed pool lies within the ten metre riparian zone required for the watercourse on the property. The impact of the pool has been considered against the objectives of a riparian corridor. The pool will not impact bed and bank stability, as it is set above a retaining wall that will be replaced as part of this proposal. The pool increases impervious area, but not by more than 50sqm so is considered a minor impact. Due to the steepness of the banks it is not expected that the pool will impact on the watercourse's ability to convey flood flows. Developing part of the riparian corridor will have some impact on its ability to provide habitat and act as a wildlife corridor, however the pool is located away from the dominant east-west corridor on the northern boundary of the property.</p> <p>While the proposal does not comply with the control, the impacts of the encroachment are considered minor due to the steepness of the land falling to the watercourse and the location of the pool on cleared land in close proximity to existing development and slightly removed from the dominant corridor to the north of the property.</p> <p>It is noted that the application intends to remove several trees in the riparian zone. Any trees/vegetation removed should be replaced according to the requirements of the Landscape Plan as required by the Biodiversity Officer in order to maintain the stability of the banks and replace habitat in the riparian zone.</p> <p>Sediment and erosion controls must be installed prior to any work on site and maintained until work is complete and groundcover is re-established. Replacing the lower retaining wall next to the watercourse should be timed to coincide with dry weather (where possible) to avoid sediment impacts to the watercourse. While</p>

Internal Referral Body	Comments
	<p>working on the retaining wall, straw bales should be placed across the watercourse with stakes that go at least one metre into the ground to prevent sediment runoff in the case of rain, and removed once work on the retaining wall is complete. As recommended in the geotech report, all cut batter slopes should be covered if exposed for more than a couple of days to prevent sediment runoff and slumping of the slope into the watercourse.</p> <p>The application is recommended for approval.</p>

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.
NSW Rural Fire Service – local branch (s79BA EPAA)	The application was referred to the NSW Rural Fire Service who provided a response in a letter (Ref: DA19030817742 LR, dated 27 March 2019) stating that the proposal is acceptable subject to recommended conditions. These conditions will be enforced as a condition of consent.

## 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 (Coastal Management) 2018

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

### 10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
  - (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
  - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*



- (c) *the carrying out of any of the following:*
  - (i) *earthworks (including the depositing of material on land),*
  - (ii) *constructing a levee,*
  - (iii) *draining the land,*
  - (iv) *environmental protection works,*
- (d) *any other development.*

Comment:

The proposed development adequately addresses such requirements.

## 11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
  - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest. Further, the proposed works will not significantly impact on the quantity and quality of surface and ground water flows to and from the adjacent littoral rainforest.

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

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

Comment:

The development is not considered likely to cause increased risk of coastal hazards on that land or other land.

## Pittwater Local Environmental Plan 2014

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

## Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	3.7m	Yes

#### Compliance Assessment

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

#### Pittwater 21 Development Control Plan

##### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	1.08m <i>Pool Coping</i>	83.39%	No
Rear building line	6.5m	13.4m <i>Pool Coping</i>	N/A	Yes
Side building line	2.5m <i>West</i>	5.6m <i>Pool Coping</i>	N/A	Yes
	1m <i>East</i>	23.9m <i>Pool Coping</i>	N/A	Yes
Building envelope	3.5m <i>West</i>	Within envelope	N/A	Yes
	3.5m <i>East</i>	Within envelope	N/A	Yes
Landscaped area	60% (469.9m <sup>2</sup> )	45.3% (354.8m <sup>2</sup> )	24.5% (115.1m <sup>2</sup> )	No

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.6 Wildlife Corridors	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **B4.6 Wildlife Corridors**

It is noted the proposed development requires removal of six native trees and two exempt species. Adequate replacement planting has been conditioned, in order for the development to comply with the requirements of this Control.

#### **B6.3 Off-Street Vehicle Parking Requirements**

It is noted the Control requires two (2) on-site parking spaces be provided. The existing parking arrangement will be maintained, which consists of the carport providing one (1) space and the driveway providing the second parking space, in an informal tandem arrangement. As this arrangement is existing and two (2) on-site spaces will continue to be provided, the development is considered to satisfactorily achieve the requirements of this Control.

## C1.5 Visual Privacy

### Description of non-compliance

The control requires private open space areas to be protected from direct overlooking within 9m.

The proposed location of the pool does not achieve the 9m separation however the pool is sited at an elevation lower than that of the adjoining property to the south. Further, significant planting exists along either side of this common boundary and additional screen planting is proposed as part of this application to enhance privacy. The existing boundary fence will remain, furthermore contributing to a reasonable level of amenity for both occupants of the subject site and those of the adjoining property.

### Merit consideration

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

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

### Comment:

Given the pool is located at an elevation lower than the adjoining property to the south, in conjunction with the existing and proposed planting and the existing boundary fence, visual privacy will be optimised. It is considered the proposed development has been designed appropriately to facilitate reasonable amenity.

- *A sense of territory and safety is provided for residents.*

### Comment:

It is considered a sense of territory and safety will be maintained and enhanced as a result of additional planting for the residents of the subject site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / 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.

## D10.7 Front building line (excluding Newport Commercial Centre)

### Description of non-compliance

The Control requires all built structures to be setback 6.5m from the front boundary. In this instance, given the irregular shape of the allotment, the boundary running parallel to Irrubel Road has been classified as the front boundary. In accordance with the variations provision of this Control, Council may, upon achievement of the Control objectives, allow variation for narrow or regularly shaped blocks. The subject site therefore meets this criteria.

The proposed swimming pool coping is located between 1.08m and 1.9m from the front boundary.

Merit consideration

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

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

Comment:

The proposed works will not be viewed from the streetscape therefore there will be no impact to the existing and desired streetscape character. Further, the development maintains a minimised bulk and scale, therefore it is considered the desired future character of the Newport locality will be achieved.

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

Comment:

No views or vistas will be hindered as a result of the development, given the swimming pool and retaining walls are located at ground level.

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

Comment:

Not applicable, as the subject site does not adjoin a main road.

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

Comment:

Six (6) native trees and two (2) exempt species are proposed to be removed. Additional planting has however been proposed and further, a condition has been imposed requiring additional native species to be planted in replacement. The proposal, as conditioned, will enhance the onsite vegetation to which will act as a screening mechanism to visually reduce the built form.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The vehicle access arrangement and on-site parking provisions will not be altered as a result of this application. This objective is therefore not considered applicable as the current arrangement will be maintained.

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



Comment:

The subject site remains unseen from the streetscape, as a result of the lengthy battleaxe. Further, it is considered the development is of a scale and density that is in keeping with the height of the natural environment given the works are largely located at ground level.

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

Comment:

Not applicable, as the proposed works do not front the street.

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

Comment:

The development has proposed additional planting along the southern elevation so to ensure amenity is protected and enhanced. Further, sufficient separation is provided between the works and existing surrounding development therefore it is considered the development responds to, reinforces and 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 PLEP 2014 / P21DCP and the relevant 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.

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

It is noted the existing dwelling house encroaches the prescribed 6.5m rear setback control, however as the dwelling house does not form part of this application no further discussion on this matter is required as a result.

The existing carport structure is located 0.38m from the side boundary, therefore encroaching the 1m side setback Control. Given this structure is existing and will not change as a result of this application no further discussion on this matter is required.

The proposed retaining walls along the eastern and northern boundary are notably sited within the prescribed setbacks, however in accordance with the variations provision of this Control, retaining walls are permitted within the side and rear setback.

Having regard to the above assessment, it is concluded that the proposed development is considered with the relevant objectives of PLEP 2014 / 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.

#### **D10.13 Landscaped Area - Environmentally Sensitive Land**

### Description of non-compliance

The control requires 60% of the site to be landscaped area. Given the site contains a battleaxe handle, this area is to be subtracted from the total site area for the purpose of the landscape area calculation. In this regard, the applicable site area equates to 783.2m<sup>2</sup> (ie. the surveyed site area 1060.8m<sup>2</sup> minus the access handle of 297.4m<sup>2</sup>).

The proposed development provides 45.3% (354.8m<sup>2</sup>) of the site as landscaped area, which represents a variation of 24.5% (115.1m<sup>2</sup>).

Upon achievement of the objectives of this Control, the variations provision allows for up to 6% of the site are to be impervious landscape treatment provided such area is utilised for outdoor recreational purposes only. Upon application of such provision, the landscaped area of the site would equate to 51.3%.

### Merit consideration

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

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

### Comment:

The proposed development will maintain a minimised bulk and scale so to ensure no unreasonable amenity impacts arise as a result. The proposed works will enhance the outdoor recreational space for the occupants in a way that is considered to be in keeping with surrounding development. The proposal is therefore considered to achieve the desired future character of the locality.

- *The bulk and scale of the built form is minimised.*

### Comment:

The swimming pool will be largely sited within the ground level, with only the western edge sitting above. The retaining walls similarly are of a minimised bulk and scale, and are to be constructed from sandstone. This material is considered capable of minimising the visual impact of development.

- *A reasonable level of amenity and solar access is provided and maintained.*

### Comment:

The swimming pool is sited at a lower elevation than that of the adjoining property to the south. Significant vegetation is planted between the subject site and the adjoining property and it is noted that additional planting is also proposed to further protect amenity. Given the pool and retaining walls are located largely at ground level, solar accessibility will not be negatively impacted.

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

### Comment:

Six (6) native trees and two (2) exempt species are required to be removed to facilitate the proposed development. The application does propose additional planting throughout the subject site, specifically within proximity to the swimming pool. A condition has been imposed, requiring additional native tree plantings, in order to comply with the relevant Controls. As such, the built form will be sufficiently screened.

- *Conservation of natural vegetation and biodiversity.*

Comment:

As above, replacement planting has been conditioned as a result of the removal of six (6) native trees. The development, as conditioned will continue to contribute to the conservation of natural vegetation and biodiversity.

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

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and raised no objections subject to conditions included in the recommendation of this report.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

The site, as conditioned, will remain significantly vegetated, which will preserve and enhance 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.*

Comment:

The soft surface within the subject site will sufficiently provide for infiltration of water to the water table, minimise run-off and assist with stormwater management, as denoted within the relevant referral comments.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / 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, subject to conditions, 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**

### **Pittwater Section 94 Development Contributions Plan**

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2019/0214 for Construction of a swimming pool, boat parking area and earthworks on land at Lot C DP 408151, 46 A Irrubel Road, NEWPORT, subject to the conditions printed below:

## **DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L-01 of 7, Rev. B - Site Plan/ Site Analysis/ Sedimentation Control Plan	09/01/2019	Serenescapes
L-03 of 7, Rev. B - Zone B Landscape Plan	09/01/2019	Serenescapes
L-04 of 7, Rev. B - Sectional Elevation	09/01/2019	Serenescapes
L-05 of 7, Rev. B - Sectional Elevation	09/01/2019	Serenescapes
L-06 of 7, Rev. B - Sectional Elevation	09/01/2019	Serenescapes

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Report (Ref: J2083)	11 February 2019	White Geotechnical Group
Arboricultural Impact Assessment	12 February 2019	Margot Blues
Bushfire Report	14 February 2019	Bushfire Planning Services

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L-02 of 7, Rev. B - Zone A Landscape Plan	09/01/2019	Serenescapes
L.-07 of 7, Rev. B - Landscape Specification & Details	09/01/2019	Serenescapes

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	18/02/2019	Serenescapes

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. 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
NSW Rural Fire Service	Referral - RFS - DA2019/0214 - 46A Irrubel Road Newport	27 March 2019

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

## 3. 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

#### 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) 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

### 5. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

### 6. Stormwater Disposal

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's PITTWATER DCP21.

A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

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

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

development.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group (J2083) dated 11th February, 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**8. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

**9. Approval to remove existing tree T1 - Broadleaf Paperbark**

Approval to remove the existing tree identified in the Arboricultural Impact Assessment as T1 - Broadleaf Paperbark, is subject to the following information to be issued to the Certifying Authority prior to the issue of a Construction Certificate:

- Survey Plan by a Registered Surveyor, indicating the location of the tree.

i) should the Survey Plan indicate that the tree is located wholly within property No.46A, approval is granted for removal of T1.

ii) should the Survey Plan indicate that the tree is located on the common boundary of property 44 and 46A, approval is only granted for removal of T1 following written agreement from the owner of No. 44 Irrubel Road, Newport.

Details are to be submitted to the Certifying Authority identifying either the occurrence of i) or ii).

Reason: The location of tree T1 is unclear and appropriate owners consent is required prior to its removal.

**10. Revised Landscape Plan**

Prior to the issue of a Construction Certificate, a revised Landscape Plan is to be provided to the Principal Certifying Authority that shows:

- 3 locally native canopy trees (minimum mature height 8.5m) of locally native species from the Littoral Rainforest EEC and/or the relevant section of Council's Native



Gardening Guide available on Council's website;

- 5 locally native tree ferns *Cyathea australis* planted downslope of the new retaining wall;
- a minimum 60% of other plantings to be locally native species.

**Reason:** To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

11. **Compliance with Standards**

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

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

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

12. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://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. **Retaining Walls**

All retaining walls are to remain wholly within the property boundaries of the subject site. No consent has been provided by the owners of adjoining properties.

**Reason:** To ensure compliance with the development consent.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **Tree protection measures**

A Project Arborist with AQZ Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing trees nominated for retention and protection in the Arboricultural Impact Assessment prepared by Margot Blues, requiring site attendance during excavation and construction works, and in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4.

The Project Arborist will be required to supervise excavation works for the retaining wall along the eastern boundary common with No. 44 Irrubel Road, and in particular existing tree T7 - Turpentine, found in No. 44. The Project Arborist shall determine the extent of root and ground protection required, if any, to be undertaken to the existing trees within the tree protection zone (TPZ) of T7 as a minimum.

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 Project Arborist shall submit certification to the Certifying Authority that all tree protection measures as listed above have been completed prior to the commencement of excavation and construction works. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

Note. A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to ensure tree protection is provided and maintained.

**15. Tree removal**

In consideration of the assessment of development impact, the following existing trees are approved for removal, based on the recommendations of the Arboricultural Impact Assessment prepared by Margot Blues Consulting Arborist:

- T8 - Jacaranda (exempt species)
- T9 - Jacaranda (exempt species)
- T10, T11, T12, T13 and T14 - Tree Ferns (construction impact)

Tree 1 - removal of Broadleaf Paperbark is subject to satisfaction of conditions applied at Construction Certificate stage.

**16. 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.

Hay bales must be placed across the watercourse and secured with stakes at least one metre into the ground, prior to work on the retaining wall, and then removed once the retaining wall work is complete.

All cut batter slopes must be covered if exposed for more than a couple of days to prevent sediment runoff and slumping of the slope into the watercourse.

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

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

**17. Road Reserve**

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

Reason: Public Safety.

**18. Tree and vegetation protection**

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

- i) all trees and vegetation within the site that are not approved for removal, excluding exempt trees and palms under the relevant planning instruments of legislation,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation,
- B) Tree protection shall be generally undertaken as follows:
- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
  - ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
  - iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
  - iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
  - v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
  - vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
  - viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
  - ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
  - xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

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

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

### 19. **Landscape works**

Landscaping is to be implemented in accordance with the Landscape Plans L-01 to L-07 inclusive, prepared by Serenescapes Landscape Designs, with the addition of the following requirements:

- i) three (3) locally native canopy trees capable of attaining at least 8 metres in height at maturity shall be planted within the rear yard, planted at 75 litre container size,
- ii) all tree planting shall have an individual minimum 3 metres x 3 metres of soil area, and shall be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings is used.
- iii) the proposed pool underside screening small tree (*Elaeocarpus*), shall be increased in number to a total of five (5) to achieve the design intent to screen the underside of the pool,
- iv) replacement embankment planting along the watercourse shall consist of 2 x *Livistona australis*, 1 x *Ceratopetalum gummifera*, and 5 x *Cyathea cooperi*,
- v) at least 80% of any new planting shall incorporate native vegetation species typically found

on the site or as listed in Littoral Rainforest Endangered Ecological Community.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form in accordance with C1.1 Landscaping.

20. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **New vegetation planting**

Prior to the issue of any Occupation Certificate, evidence that the landscaping has been completed in accordance with this consent is to be provided to the Principal Certifying Authority that shows:

- o 3 locally native canopy trees (minimum mature height 8.5m) of species from the Rolling Hills and Lower Shale Slopes (as listed in the Native Gardening Booklet available on Councils website) with planting dimensions that comply with P21DCP C1.1;
- o 5 locally native tree ferns *Cyathea australis* planted downslope of the new retaining wall;
- o a minimum 60% of other plantings to be locally native species.

**Reason:** To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

23. **Swimming Pool Requirements**

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

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

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

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

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

### 24. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme of the landscape plan and site character.

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

### 25. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

### 26. **No Planting Environmental Weeds**

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

**Reason:** Weed management.

### 27. **Works to cease if item found**

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



**Reason:** To protect Aboriginal Heritage.

28. **Dead or Injured Wildlife**

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

**Reason:** To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.

29. **Swimming pool filter**

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

**Reason:** To ensure acoustic amenity is maintained for adjoining properties.

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

**Signed**



**Georgia Quinn, Planner**

The application is determined on 12/06/2019, under the delegated authority of:



**Daniel Milliken, Acting Development Assessment Manager**