

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2022/0285 |
|----------------------------|-------------|

|   |  |
|---|--|
| <b>Responsible Officer:</b>               | Claire Ryan  |
| <b>Land to be developed (Address):</b>    | Lot 8 DP 270907, 5 Baz Retreat WARRIEWOOD NSW 2102 |
| <b>Proposed Development:</b>              | Construction of a swimming pool                    |
| <b>Zoning:</b>                            | R3 Medium Density Residential                      |
| <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>                             | Natalea Spain                                      |
| <b>Applicant:</b>                         | Jamie King   |

|                                  |   |
|----------------------------------|---|
| <b>Application Lodged:</b>       | 15/03/2022                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 23/03/2022 to 06/04/2022                |
| <b>Advertised:</b>               | Not Advertised                          |
| <b>Submissions Received:</b>     | 0                                       |
| <b>Clause 4.6 Variation:</b>     | Nil                                     |
| <b>Recommendation:</b>           | Approval                                |

|                                 |              |
|---------------------------------|--------------|
| <b>Estimated Cost of Works:</b> | \$ 65,000.00 |
|---------------------------------|--------------|

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for construction of a swimming pool, filter, fencing, privacy screen and landscaping works in the rear yard.

### ASSESSMENT INTRODUCTION

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

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments

Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

## SITE DESCRIPTION

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 8 DP 270907 , 5 Baz Retreat WARRIEWOOD NSW 2102   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one allotment located on the southern side of Baz Retreat, Warriewood.</p> <p>The site is irregular in shape with a arced frontage of 26.08m along Baz Retreat and a maximum depth of 18.395m. The site has a surveyed area of 399.2m<sup>2</sup>.</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a detached dwelling house with attached garage.</p> <p>The site slopes approximately 1m from front to rear and is landscaped.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by detached dwelling houses and a residential flat building.</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:

- DA2018/1202 for Construction of a dwelling house on proposed Lot 8 was approved by Council on 23 November 2018.

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

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

| Section 4.15 Matters for Consideration   | Comments   |
|--|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument        | See discussion on “Environmental Planning Instruments” in this report.   |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan               | Pittwater 21 Development Control Plan applies to this proposal.  |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement                    | None applicable.   |

| Section 4.15 Matters for Consideration  | Comments  |
|---|---|
| <p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&amp;A Regulation 2000)</p>  | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| <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><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>   |

| Section 4.15 Matters for Consideration   | Comments  |
|--|---|
| 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 | No submission were received in relation to this application.  |
| 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 from 23/03/2022 to 06/04/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

## REFERRALS

| Internal Referral Body                                    | Comments  |
|---|---|
| NECC (Bushland and Biodiversity)                          | The biodiversity planning requirements for this site were addressed as part of the previously approved subdivision application. The ongoing management of the community association lot and responsible pet ownership are outlined within the Community Management Statement.   |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | The proposed DA involves the construction of an inground pool. The proposed works are located outside the 1% AEP and PMF extent.  |
| NECC (Water Management)                                   | This application has been assessed against relevant legislation and policy relating to water management, waterways, riparian areas, and groundwater.<br>NECC Water has no objections to the proposal.<br><br><u>Assessing Officer's Comment:</u><br>The application was referred to Water Management following recommendation from the Strategic and Place Planning (Development Contributions) Officer, regarding impervious area calculations. Council's Team Leader, Catchments has confirmed that swimming pools are not considered to contribute to impervious area calculations, given they are connected to the sewer and any surplus water on that portion of the site will be dispersed. |
| Strategic and Place Planning                              | The application proposes the construction of a swimming pool at 5   |

| Internal Referral Body      | Comments  |
|-----------------------------|---|
| (Development Contributions) | <p>Baz Retreat, Warriewood Valley.</p> <p>The Warriewood Valley Contributions Plan Amendment 16 Revision 3 is the applicable Contributions Plan. For residential development, the Contributions Plan levies for additional lots/dwellings only. As such, no contribution is required for works proposed under DA2022/0285.</p> <p><u>Matters for consideration – water management</u><br/>The subject lot was created by a 40-lot Torres Title subdivision (N0182/13), approved by the Land and Environment Court on 23 October 2014.</p> <p>The water management report supporting N0182/13 proposed OSD in the form of water management basins to manage stormwater runoff. This report appears to model 50% impervious area across the total sector. It is unclear what assumptions the report makes in relation to imperviousness on individual residential allotments.</p> <p>Any increase in impervious area above the assumptions made in the water management report for the residential subdivision has the potential to adversely impact the approved and constructed stormwater management devices.</p> <p>The plans prepared by Jamie King Landscape Architects submitted as part of the DA2022/0285 seem to indicate that the pervious area would increase under the proposed development from 37.7% to 39.6%. However this is questioned as the PLEP definition of Landscaped Area does not appear to include a swimming pool.</p> <p>If the Assessing Officer is confident that the proposal will result in an increase to impervious areas on 5 Baz Retreat, it is recommended that Council’s Stormwater Team review the proposal to confirm that any increase to pervious area under DA2022/0285 will not adversely impact the existing stormwater management devices under N0182/13.</p> <p><u>Assessing Officer's Comment:</u><br/>See commentary under Water Management referral.</p> |

**ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

### SEPP 55 - Remediation of Land

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

### SEPP (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 did not require referral to Ausgrid.

### Pittwater Local Environmental Plan 2014

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

#### Principal Development Standards

| Standard             | Requirement | Proposed  | % Variation | Complies |
|----------------------|-------------|-----------|-------------|----------|
| Height of Buildings: | 8.5m        | Max. 1.8m | -           | Yes      |

#### Compliance Assessment

| Clause                  | Compliance with Requirements |
|-------------------------|------------------------------|
| 4.3 Height of buildings | Yes                          |
|                         |                              |

| Clause                             | Compliance with Requirements |
|------------------------------------|------------------------------|
| 6.1 Warriewood Valley Release Area | Yes                          |
| 7.1 Acid sulfate soils             | Yes                          |
| 7.2 Earthworks                     | Yes                          |
| 7.6 Biodiversity protection        | Yes                          |
| 7.10 Essential services            | Yes                          |

## Detailed Assessment

### 7.1 Acid sulfate soils

Clause 7.1 Acid Sulfate Soils requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map. The proposed development does not require significant earthworks and is acceptable in relation to acid sulfate soils.

### 7.2 Earthworks

The objective of Clause 6.2 Earthworks requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*



Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(f) the likelihood of disturbing relics*

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

Conditions are included in the recommendation of this report that will minimise the impacts of the development.

*(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

Comment:

The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

## 7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

*(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*

*(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*

*(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*

*(iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

### 7.10 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

Comment:

The subject site is supplied with the above essential services. The proposed development retains and relies upon these services.

### Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement     | Proposed           | % Variation* | Complies |
|--------------------|-----------------|--------------------|--------------|----------|
| Rear building line | 4m              | Fence: 0m          | 100%         | No       |
|                    |                 | Pool Coping: 600mm | 85%          | No       |
|                    |                 | Pool: 1m           | 75%          | No       |
| Side building line | SE: 2.5m        | 8.2m               | -            | Yes      |
|                    | NW: 900mm       | 4.1m               | -            | Yes      |
| Building envelope  | 3.5m            | Within envelope    | -            | Yes      |
| Landscaped area    | 45% (179.64sqm) | 40.2% (160.4sqm)   | 10.7%        | No       |

Compliance Assessment

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes                          | Yes                         |

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A4.16 Warriewood Valley Locality  | Yes                          | Yes                         |
| B3.6 Contaminated Land and Potentially Contaminated Land                              | Yes                          | Yes                         |
| B5.15 Stormwater  | Yes                          | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill                            | Yes                          | Yes                         |
| B8.3 Construction and Demolition - Waste Minimisation                                 | Yes                          | Yes                         |
| B8.4 Construction and Demolition - Site Fencing and Security                          | Yes                          | Yes                         |
| C1.3 View Sharing   | Yes                          | Yes                         |
| C1.13 Pollution Control   | Yes                          | Yes                         |
| C1.17 Swimming Pool Safety  | Yes                          | Yes                         |
| C6.2 Natural Environment and Landscaping Principles                                   | Yes                          | Yes                         |
| C6.3 Ecologically Sustainable Development, Safety and Social Inclusion                | Yes                          | Yes                         |
| C6.5 Utilities, Services and Infrastructure Provision                                 | Yes                          | Yes                         |
| D16.1 Character as viewed from a public place   | Yes                          | Yes                         |
| D16.5 Landscaped Area for Newly Created Individual Allotments                         | No                           | Yes                         |
| D16.7 Side and rear building lines  | No                           | Yes                         |
| D16.9 Solar access  | Yes                          | Yes                         |
| D16.10 Private and Communal Open Space Areas  | Yes                          | Yes                         |
| D16.11 Form of construction including retaining walls, terracing and undercroft areas | Yes                          | Yes                         |
| D16.12 Fences   | Yes                          | Yes                         |
| D16.13 Building colours and materials   | Yes                          | Yes                         |

### Detailed Assessment

#### **D16.5 Landscaped Area for Newly Created Individual Allotments**

The proposed development provides 40.2% of the site as landscaped area, where 45% is required. The underlying outcomes of the control are addressed as follows:

*Conservation of significant natural features of the site and contribution to the effective management of biodiversity.*

Comment:

The proposed development does not require removal or modification of any significant natural features or elements of biodiversity in that the pool is proposed to be located in an area of existing level lawn.

*Warriewood Valley achieves a unified and high quality landscape character that contributes to the sense of place.*

Comment:

The proposed development is of high design quality itself, and retains the existing high quality street presentation, being located in the rear yard.

*Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological diversity and ecological processes.*

Comment:

The proposed development retains ample area for the purpose of water infiltration and deep soil planting for a variety of planting types to assist with ecological sustainability.

*The area of site disturbance is minimised.*

Comment:

The proposal does not require unreasonable disturbance of the site, in that it is for a pool only.

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

Comment:

The proposed development retains ample soft (permeable) open space on site for the purpose of reduction in run off, soil erosion and siltation.

*Landscaped areas should be predominately areas of deep soil.*

Comment:

Approximately 85% of the provided landscaped area is deep soil.

*New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*

Comment:

The proposed pool is located in the rear yard and is not visible from the street. The proposal retains the landscaped presentation to the streetscape.

*To ensure a reasonable level of privacy and amenity is provided within the development site and maintained to neighbouring properties.*

Comment:

The proposed pool is located in-ground and the surrounding coping is at existing ground level. As such, the proposed development retains the existing level of privacy to adjoining neighbours.

### **D16.7 Side and rear building lines**

The proposed development includes a pool and fence in the rear yard, within the 4m rear setback area. The fence is located immediately at the rear boundary line (inside the property boundary). The pool coping is 600mm from the rear boundary and the pool itself is located 1m from the rear boundary. The underlying outcomes of the control are addressed as follows:

*To achieve the desired future character of the Locality.*

Comment:

The proposed development is consistent with the requirements of Clause A4.16 Warriewood Valley Locality, which details the desired future character of the site and surrounds.

*The area of site disturbance is minimised and soft surface is maximised.*

Comment:

The proposal does not require unreasonable disturbance of the site, in that it is for a pool only. The proposed development retains ample soft surface.

*The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*

Comment:

The proposed development does not unreasonable increase the bulk and scale of built form on the site in that the pool is located in-ground, the pool coping is at exiting ground level and the fence is 1.8m in height, as anticipated for low density residential development.

*To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.*

Comment:

The proposed pool is located in-ground, the pool coping is at existing ground level and the fence is 1.8m in height, as anticipated for low density residential development. As such, the proposed development does not proposed unreasonable built form, and retains suitable breaks between buildings.

*To create usable curtilage areas around buildings for viable access, landscaping and open space.*

Comment:

The proposed development retains curtilage around the pool for access, landscaping and open space.

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

Comment:

The proposed development is designed and sited so as not to obstruct important views to or from public and private places.

*Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.*

Comment:

The proposed development does not require removal of any significant vegetation (lawn only) and includes additional landscaping to reduce the visual impact of the works.

*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.*

Comment:

The proposed pool is located in-ground and the surrounding coping is at existing ground level. As such, the proposed development retains the existing level of privacy to adjoining neighbours.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **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 DA2022/0285 for Construction of a swimming pool on land at Lot 8 DP 270907, 5 Baz Retreat, WARRIEWOOD, 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>             |
| Sht-101 Master Landscape Plan                              | 9 February 2022 | Jamie King Landscape Architect |
| Sht-102 Backyard Detail Plan                               | 9 February 2022 | Jamie King Landscape Architect |
| Sht-103 Sections   | 9 February 2022 | Jamie King Landscape Architect |

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>Waste Management Plan</b> |                  |                                |
|------------------------------|------------------|--------------------------------|
| <b>Drawing No/Title.</b>     | <b>Dated</b>     | <b>Prepared By</b>             |
| Waste Management Plan        | 22 February 2022 | Jamie King Landscape Architect |

In the event of any inconsistency between conditions of this consent and the

drawings/documents referred to above, the conditions of this consent will prevail.

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

## 2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention

to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no



hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2018
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

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

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

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

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

### 5. Amendments to the Approved Plans

No consent is granted for fencing on common property boundaries. Any fencing on common property boundaries is to be deleted from plans or relocated to be wholly within the property boundaries of the subject site. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

### 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.

**7. 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.

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

**8. Survey Certificate**

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

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

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

**9. Installation and Maintenance of Sediment Control**

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

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

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

**10. Swimming Pool Requirements**

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

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

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

### 11. **Swimming Pool/Spa Motor Noise**

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

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

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

Signed



**Claire Ryan, Principal Planner**

The application is determined on 18/05/2022, under the delegated authority of:



A handwritten signature in black ink that reads "Phil Lane".

**Phil Lane, Acting Development Assessment Manager**