

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1845
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 27 DP 14682, 52 Iluka Road PALM BEACH NSW 2108
Proposed Development:	Alterations and additions to a dwelling house including studio, swimming pool and spa
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jane Cole
Applicant:	Rachel Hudson Architect

Application lodged:	19/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	26/11/2018 to 12/12/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 715,500.00
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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 Local Environmental Plan 2014 - 7.1 Acid sulfate soils
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - D12.5 Front building line
 Pittwater 21 Development Control Plan - D12.6 Side and rear building line
 Pittwater 21 Development Control Plan - D12.8 Building envelope
 Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 27 DP 14682 , 52 Iluka Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one allotment located on the south-western side of Iluka Road.</p> <p>The site is regular in shape with a frontage of 12.215m along Iluka Road and a depth of 42.375m. The site has a surveyed area of 514.5m².</p> <p>The site is located within the zone E4 Environmental Living and accommodates a two storey dwelling with detached double garage and boat shed.</p> <p>The site is relatively flat.</p> <p>The site has lawn area at the front of the dwelling along the water front and between the garage and dwelling. There are no known threatened species on the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one to two storey dwellings to the east and west. To the south of the site is crown land and then Pittwater. To the north of the site on the northern side of Illuka Road is a Council Reserve.</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 proposal is seeking approval for alterations and additions to an existing dwelling including the following:

Garage and Studio Ground and First Floor

- Convert existing triple garage into a double garage, and provide a new cabana, shower, WC, bar, and internal stairs to a new first floor level,
- New first floor studio above the garage to provide for living area with wet bar, bedroom, toilet, deck and terrace.

Dwelling Ground Floor

- New front door and entry, open plan living, kitchen, dining with new windows and bifold doors, new internal access stairs to existing first floor level.

First Floor

- Two bedrooms including master with ensuite, bath and walk-in robe, separate bathroom, study and internal stairs.

External Works

- New in ground swimming pool and associated fencing,
- New outdoor spa and surrounding decking,
- New landscaping to provide for new plantings and stepping stones,
- New roof over existing dwelling through the removal of the existing pitched tiles roof and replacement with increased external wall height to provide for a parapet style roof.

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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of	(i) Environmental Impact

Section 4.15 Matters for Consideration'	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Alison Ann Copeman	50 Iluka Road PALM BEACH NSW 2108

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

- Use of existing Boat Shed
- Privacy and noise from use of spa pool

The matters raised within the submissions are addressed as follows:

- **Use of existing Boat Shed**

The submission raised concern regarding the use/ occupancy of Boat Shed on the site.

Comment:

The proposal does not include the Boat Shed. The issues raised in the submission regarding the use/occupancy of the boat shed have been forwarded to Councils Building Compliance team to investigate.

Council understands the concerns raised regarding the use of the spa pool by the occupants of the boat shed, however, as the boat shed does not form part of this proposal, Council can not preempt the use of the spa pool by those other than the occupants of the dwelling and their guests.

- **Privacy and noise from use of spa pool**

The submission raised concern with the location of the spa pool and potential privacy and noise impacts to the adjoining property at no. 50 Illuka Road.

Comment:

The issue has been addressed in more detail under parts C1.5 Visual Privacy and C1.6 Acoustic Privacy. The spa pool is located within 9m of a window and entry of no. 50 Illuka Road. The properties are separated by a 1.8m high boundary fence and the window of no. 50 Illuka Road is translucent and will not provide direct views of this area. However, as the proposed spa pool is within 9m of a window and entry to the adjoining dwelling at no. 50 Illuka Road a condition will be included in the consent requiring the deck of the spa pool to be a minimum of 0.9m from the southern boundary and screen planting to be installed. It is considered the location of the spa pool, existing boundary fence, conditioned screen planting and standard residential use will maintain visual privacy between the site and the adjoining property.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>The site is identified as being within an area affected by Acid Sulfate Soils (Class 3). The site requires a preliminary assessment if works are going to be deeper than 1m. An excavation to a maximum depth of ~2.0m is required to install the proposed pool.</p> <p>No Acid Sulfate Report was undertaken. Sufficient evidence has not been provided that a Acid Sulfate plan in not required.</p> <p>Recommendation REFUSAL</p> <p>Planners Note After discussion with the Environmental Health (Acid Sulfate) team leader, conditions have been included in the consent requiring an Acid</p>

Internal Referral Body	Comments
	<p>Sulfate Soil Management Plan to be submitted to the Certifying Authority prior to the release of the construction certificate and if any new information is revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils, Council and the Principal Certifying Authority are to be immediately notified prior to further commencement. These conditions satisfy the requirements.</p>
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to the completion of landscaping and the protection of existing trees and vegetation.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <p>B4.22 Preservation of Trees or Bushland Vegetation</p> <p>C1.1 Landscaping</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against Pittwater DCP B4.15, B4.16, B4.19, B4.20, B4.22.</p> <p>The proposal includes a new spa and deck at the rear of the site, and a swimming pool and new studio over the existing garage at the front of the site. Two frangipani's are proposed for removal. The proposal is supported subject to erosion and sediment controls and no access to the site via the adjacent beach reserve.</p>
NECC (Coast and Catchments)	<p>Estuarine Risk Management</p> <p>The property at 52 Iluka Road, Palm Beach has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>A Coastal and Estuarine Hazard Assessment prepared by Cardno (NSW/ACT) Pty Ltd, dated 1 November 2018, has been lodged in support of the development proposal and an Estuarine Planning Level (EPL) of RL 2.65m AHD has been determined for the alterations and additions to the existing dwelling by the coastal engineer. The EPL has been calculated based upon the foreshore type and the setback of the existing development from the foreshore edge for the 2050 sea level rise scenario. EPLs for the development proposed further landward have also been calculated utilising the applicable reduction factor consistent with Council's Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015).</p> <p>Floor levels for proposed new development are at or above the EPL with the exception of the boat shed (which is not included as a part of</p>

Internal Referral Body	Comments
	<p>this DA) and the ground floor of the existing dwelling. At RL 2.63m AHD, the ground floor level of the existing dwelling is lower than the recommended EPL however the B3.7 Estuarine Hazard Control makes the following provision: 'For existing structures, a tolerance of up to minus 100mm may be applied to the Estuarine Planning Level in respect of compliance with these controls'.</p> <p>As the EPL is less than 100mm lower than the EPL, the existing floor level is sufficient to satisfy the control. The proposed new development is able to satisfy the requirements of Council's estuarine hazard policy and controls subject to conditions.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 12 Development on land within the coastal vulnerability area <i>Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <p>(a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></p> <p>(b) <i>the proposed development:</i></p> <p>(i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i></p> <p>(ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></p> <p>(iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></p> <p>(c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></p> <p><u>Comment:</u> The subject land is not included on the Coastal Vulnerability Area Map under <i>State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)</i> and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. As such, it is considered that the application complies with the requirements of <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.</p>
NECC (Development Engineering)	The excavation for the proposed swimming pool appears greater than 1.0 meter and about 900 mm from the side boundary. In accordance

Internal Referral Body	Comments
	<p>with Council's Pittwater 21 DCP 2014 clause B3.1 the applicant has not submitted a Geotechnical Risk assessment report to Council. As result the application can not be supported.</p> <p>Dated 15/05/2019</p> <p>An " Acceptable Risk Management" level is achievable in accordance with the submitted geotechnical report. No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>The changes in impervious area do not trigger water quality controls.</p> <p>Sediment and erosion controls should be installed prior to any work on site and maintained until groundcover is re-established.</p>
Parks, reserves, beaches, foreshore	No objections to the proposal and no conditions recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A328515 dated Monday, 05, November 2018).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

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

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:

Not applicable to the site.

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:

Not applicable to the site.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- (b) the proposed development:
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

The subject land is not included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

As such, it is considered that the application complies with the requirements of State Environmental Planning Policy (Coastal Management) 2018 as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed works are unlikely to cause an adverse impact upon the matters identified in this clause. The proposal is located wholly within the subject site and does not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposal has been designed in such a way that it satisfies the relevant matters identified in this clause.

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,

- (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected and the surrounding area consists of examples of similar developments.

The foreshore area is heavily modified and no aboriginal heritage sites have been identified within the vicinity of the proposed development. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. A condition of consent has been placed to stop works if any Aboriginal Engravings or Relics are unearthed.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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 subject land is not included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

As such, it is considered that the application complies with the requirements of State Environmental Planning Policy (Coastal Management) 2018 as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.

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

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Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	6.59m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
7.1 Acid sulfate soils	No
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.8 Limited development on foreshore area	Yes

Detailed Assessment

7.1 Acid sulfate soils

The proposal is located within an Acid Sulfate Soils - Class 3 area. The applicant did not provide an acid sulfate management plan. The application was referred to Councils Environmental Health (Acid Sulfate) team for review. The Environmental Health (Acid Sulfate) team did not support the proposal due to a lack of information.

After discussion with the Environmental Health (Acid Sulfate) team leader, conditions have been included in the consent requiring an Acid Sulfate Soil Management Plan to be submitted to the Certifying Authority prior to the release of the construction certificate and if any new information is revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils, Council and the Principal Certifying Authority are to be immediately notified prior to further commencement. These conditions satisfy the requirements.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Nil for garages only, 3m for all other structures including fences.	Garage - nil Secondary Dwelling - 1.12	N/A	Yes
Rear building line	Foreshore Building Line applies	behind line	N/A	Yes
Side building line	North West - 2.5m	2.06m	17.6%	No
	South East - 1m	0.85m	15%	No
Building envelope	3.5m	Outside envelope	N/A	No
	3.5m	Outside envelope	N/A	No
Landscaped area	60%	33%	45%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	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	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes
D15.22 Masterplan - Careel Bay	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

Description of non-compliance

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation. The location of the spa along the southern boundary between the dwelling and boat shed and is directly located within 9m of a window and entry of no. 50 Illuka Road. The sites are separated by a 1.8m high boundary fence and the window of no. 50 Illuka Road is translucent and will not provide direct views of this area.

The owner of no. 50 Illuka Road has raised concern with the location of the spa pool and its use by those occupying the boat shed.

Issues regarding the use of the spa pool by those renting the boat shed through Airbnb has been addressed in the Submission section of the report. The assessment is based on the standard residential use of the site.

Merit consideration

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

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

Comment:

The proposed spa pool is within 9m of a window and entry to the adjoining dwelling at no. 50 Illuka Road a condition will be included in the consent requiring the deck of the spa pool to be a minimum of 0.9m from the southern boundary and screen planting to be installed. It is considered the location of the spa pool, existing boundary fence, conditioned screen planting will maintain visual privacy between the site and the adjoining property.

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

Comment:

Given the above, the proposed development retains a sense of territory and safety for the residents of the subject site, and does not result in unreasonable privacy impacts to the adjacent

property.

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

C1.6 Acoustic Privacy

Description of Issue

Concern was raised in a submission that the location of the spa pool between the boat shed and dwelling along the southern boundary would present an unreasonable noise impact to the occupants and guests of no. 50 Iluka Road.

Issues regarding the use of the spa pool by those renting the boat shed through Airbnb has been addressed in the Submission section of the report. The assessment is based on the standard residential use of the site.

Merit Assessment:

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

- *Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited.*

Comment:

The development is not expected to produce noise above the level of normal residential use and what is consistent with the surrounding residential area. The conditioned screen planting along the boundary will further mitigate any noise issues. It is considered that any noise from the spa area will be largely contained within the site upon installation of the screen planting.

- *Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas.*

Comment:

The site is residential dwelling and the use of the spa pool area is considered to be of a standard residential use. Noise produced in this area is not expected to be offensive and largely contained within the subject site. As mentioned above, the conditioned screen planting along the southern boundary should mitigate any noise issues.

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

D12.5 Front building line

Control

The control allows a nil setback for garages and 3m for all other structures including fences.

Description of non-compliance

- Ground floor cabana shower - 0.3m
- First floor studio terrace - 1.1m

Merit consideration

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

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

Comment:

The proposal will retain the low-density character and does not result in the removal of any significant vegetation. The proposal complies with the building height controls and proposed colours and materials will harmonise with the natural environment. The proposed development does not achieve the desired future character in its entirety, however, it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is considered acceptable.

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

Comment:

The minor non-compliance with the setback control does not obstruct any significant views. The development has been appropriately designed and sited so as to ensure the preservation of views and vistas

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

Comment:

The subject site is not adjoining a main road.

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

Comment:

The majority of the vegetation on the site is to be retained. The vegetation on the site is consistent with landscaping on the adjoining and surrounding properties and is considered sufficient to visually reduce the built form and it is not considered necessary to further enhance the vegetation on the site.

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

Comment:

The proposal is unable to facilitate forward vehicular movement whilst entering and existing the site. However, the proposal does not alter the current access arrangement, and forward movement is not required with respect to the subject site as it does not adjoin a classified main road.

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

Comment:

The proposal will be maintaining the majority of the landscaping on the site with a section of lawn being removed for the swimming pool. As mentioned throughout the report the proposed and existing development along with the majority of dwellings along the western side of Illuka Road do not achieve the desired future character in its entirety, however, the site and those adjoining it are generally consistent with the overall intention of the desired future character of the Palm Beach Locality

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

Comment:

The proposed development enhances the existing streetscape by providing for a more attractive building facade and promotes a scale and density that is in keeping with the height of the natural environment

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

Comment:

The proposed development introduces additional architectural features to the eastern elevation of the garage and studio, providing for a more attractive street frontage. The modification also includes an area addressing the streetscape for casual surveillance and active frontage from the studio terrace (above the garage). The proposal will have no impact on the large road reserve in front of site and will maintain the pedestrian amenity.

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

Comment:

The development is in keeping with the scale and alignment of built form along this particular stretch of Illuka Road, noting that several other properties along the western side of the street have been designed within the front boundary setback areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.6 Side and rear building line

Description of non-compliance

Required side setback (north): 2.5m

Proposed side setback (north): 2.06m

Required side setback (south): 1m
Proposed side setback (south): 0.85m

No works are proposed seaward of the foreshore building line. The development will continue to provide pedestrian foreshore access and is consistent with the waterfront access provisions of SEPP Coastal Management.

Merit consideration

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

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

Comment:

The proposal will retain the low-density character of the area and does not result in the removal of any significant vegetation. The proposal complies with the building height controls and proposed colours and materials will harmonise the proposal with the natural environment. The proposed development does not achieve the desired future character in its entirety, however, the proposed development is complementary to the streetscape in that it generally retains setbacks consistent with the spatial proportions of the street and it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is considered acceptable.

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

Comment:

The proposal will be maintaining the existing side boundary setback established by the double garage. The proposed studio above the garage and cabana is articulation to reduce the visual impact of the built form with the bulk of the first floor development stepping away from the street frontage. The proposed development is of a bulk and scale that is consistent with existing developments in the locality. The proposal demonstrates acceptable bulk and scale.

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

Comment:

The proposed development is adequately designed and sited so as to preserve views and vistas to and from the subject site and adjacent sites.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

The proposed development is adequately designed and sited so as to preserve views and vistas to and from the subject site and adjacent sites.

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

Comment:

As above, the proposed development is adequately designed in relation to view sharing.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

The proposed development includes substantial vegetation in the front and rear yards, and maintains an attractive streetscape.

- *Flexibility in the siting of buildings and access.*

Comment:

The proposal has minimal flexibility in the siting of buildings and access as it is maintaining the existing set backs to the side boundaries established on the site. No unreasonable levels of amenity will arise as a result of this application for either the subject site or adjoining sites.

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

Comment:

The submitted plans demonstrate adequate retention and provision of vegetation in order to visually reduce the built form.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment:

Not applicable, as the subject site does not adjoin commercially zoned lands.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.8 Building envelope

Description of non-compliance

The Control requires development to be sited within planes that are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height. The proposed studio above the garage and cabana encroaches into the North and South Side Boundary Envelope.

Merit consideration

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

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

Comment:

The proposal will retain the low-density character of the area and does not result in the removal of any significant vegetation. The proposal complies with the building height controls and proposed colours and materials will harmonise the proposal with the natural environment. The proposed development does not achieve the desired future character in its entirety, however, the proposed development is complementary to the streetscape in that it generally retains setbacks consistent with the spatial proportions of the street and it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is considered

acceptable.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The proposal is well articulated, and is of a scale that is consistent with surrounding environment. The proposed development will sit below the height of the trees of the natural environment. Overall, the proposal will result in an improved aesthetic as seen from the street.

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

Comment:

The proposed development is complementary to the streetscape in that it represents a bulk and scale in proportion with existing development in the area. As such, the proposed development is considered to be consistent with the desired character of the locality.

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

Comment:

The proposal will be maintaining the existing side boundary setback established by the double garage. The proposed studio above the garage and cabana is articulation to reduce the visual impact of the built form with the bulk of the first floor development stepping away from the street frontage. The proposed development is of a bulk and scale that is consistent with existing developments in the locality. The proposal demonstrates acceptable bulk and scale.

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

Comment:

The proposed development is adequately designed and sited so as to preserve views and vistas to and from the subject site and adjacent sites.

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

Comment:

The proposed development ensures adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 - Solar Access and has been designed so that there are no unreasonable impacts on the adjoining neighbours. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

The submitted plans demonstrate adequate retention and provision of vegetation in order to visually reduce the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the *Environmental*

Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The proposed landscaped area on the site does not meet the 60% requirement of this control, however, the landscaped area currently provided on the site is also deficient of this requirement and the proposal will be increasing the landscaped area from 20.5% (105.36m²) to 39.17% (201.57m² including the 6% variation).

Merit consideration

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

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

Comment:

The proposal will retain the low-density character of the area and will increase the landscaped area on the site. The proposal complies with the building height controls and proposed colours and materials will harmonise with the natural environment. The proposed development does not achieve the desired future character in its entirety, however, it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is considered acceptable.

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

Comment:

The proposal will be maintaining the existing side boundary setback established on the site and the studio above the garage and cabana is articulation to reduce the visual impact of the built form. The increase in landscaped area on the site and additional planting along the northern and southern boundaries will further soften and screen the development when viewed from the adjoining properties and public domain. The proposed development is of a bulk and scale that is consistent with existing developments in the locality. The proposal demonstrates acceptable bulk and scale and has been minimised where needed.

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

Comment:

The proposed development ensures adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 - Solar Access and has been designed so that there are no unreasonable impacts on the adjoining neighbours. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

The proposed development will be increasing the landscaped area on the site and further enhances vegetation through additional planting along the northern and southern boundaries to visually reduce the built form.

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

Comment:

The proposed development conserves the natural vegetation and biodiversity of the site by increasing and enhancing vegetation.

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

Comment:

Subject to conditions recommended by Council's Development Engineers, stormwater will be appropriately managed on the site.

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

Comment:

The proposed development will be increasing the landscaped area on the site by removing hard surface and decking. The existing vegetation on the site will be further enhanced by the additional planting along the northern and southern boundaries, therefore preserving and enhancing the rural and bushland character of the area.

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

Comment:

The proposed development will result in an increase in the amount of soft surface (landscaped area) provided on the site. The increased landscaped area will provide greater areas for water infiltration of water to the water table, minimising run-off and assisting in stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

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 DA2018/1845 for Alterations and additions to a dwelling house including studio, swimming pool and spa on land at Lot 27 DP 14682, 52 Iluka Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
SPH - 01 - DA - Issue B	02.04.19	Rachel Hudson Architect
SPH - 03 - DA - Issue B	02.04.19	Rachel Hudson Architect
SPH - 05 - DA - Issue B	02.04.19	Rachel Hudson Architect
SPH - 06 - DA - Issue B	02.04.19	Rachel Hudson Architect

SPH - 07 - DA - Issue B	02.04.19	Rachel Hudson Architect
SPH - 08 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 09 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 10 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 11 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 12 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 13 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 14 - DA - Issue A	09.09.18	Rachel Hudson Architect
SPH - 15 - DA - Issue A	09.09.18	Rachel Hudson Architect

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate Certificate number: A328515	Monday, 05, November 2018	Rachel Hudson
GEOTECHNICAL INVESTIGATION: Alterations and Additions and New Pool at 52 Iluka Road, Palm Beach J2191	7th May, 2019	WHITE GEOTECHNICAL GROUP PTY LTD
Coastal and Estuarine Hazard Assessment 52 Iluka Road 59919032	1 November 2018	Cardno

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
SPH - 04 - DA - Issue B	02.04.19	Rachel Hudson Architect

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
SPH - 02 - DA - Issue B	02.04.19	Rachel Hudson 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. **Amendments to plans**

The following amendments are to be made to the approved plans:

- The deck along the southern edge of the Spa is to have a minimum setback of 0.9m from the southern side boundary with no. 50 Iluka Road .

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.

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 \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

6. On slab landscape planting and associated works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all planter walls and slab, and drainage of the

concrete slab over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping:

-300mm for lawn and groundcovers

-600mm for shrubs

Design certification shall be submitted to the Certifying Authority by a structural engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and

established planting).

Reason: to ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

7. **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.

8. **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 dated 7th May 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.

9. **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.

10. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

11. **Acid Sulfate Soils**

All excavation, construction and associated works must be conducted in accordance with an Acid Sulfate Soil Management Plan prepared by a suitably qualified geotechnical engineer and in accordance with the Acid Sulfate Soils Manual (ASSMAC, 1998).

Reason: To ensure management of potential acid sulfate soils.

12. **Acid Sulfate Soils Management Plan**

An Acid Sulfate Soils Management Plan is to be prepared by a suitably qualified geotechnical engineer and in accordance with the Acid Sulfate Soils Manual (ASSMAC, 1998) and submitted to the Council for review and the Principal Certifying Authority.

Reason: To protect the environment and private & public infrastructure.

13. **Required Planting – Screening**

Screen planting is to be provided in the area between the deck for the Spa and the southern side boundary with no. 50 Iluka Road.

The selected planting is to comprise of native species capable of attaining a minimum height of 2 metres at maturity.

Plants are to be planted at minimum 1.5 metre centres and be of a minimum pot size of 25 litres at planting.

Reason: Local amenity.

14. **Estuarine Hazard Design Requirements**

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes, they will not reduce access to or diminish the amenity of adjoining foreshore public land.

Reason: To minimise risk associated with estuarine hazards for development in the coastal zone.

15. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of RL 2.65m AHD has been determined for the existing dwelling and shall be applied to all additions and alterations proposed below this level as follows:

- All structural elements below RL 2.65m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above RL 2.65m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below RL 2.5m AHD.

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

Reason: To ensure aspects of the development likely to be affected by wave action and tidal inundation are built at the appropriate level

16. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations and requirements of the approved Coastal and Estuarine Hazard Assessment Report prepared by Cardno (NSW/ACT) Pty Ltd, dated 1 November 2018 and these recommendations are to be incorporated into construction plans and specifications as necessary.

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

17. **Temporary security fencing**

Prior to the issue of the Construction Certificate, the site is to have temporary security fencing installed along the southern boundary, adjacent the beach reserve, to ensure no access to the beachfront during construction.

Reason: To protect natural features and habitats in accordance with relevant Natural Environment LEP/DCP control (DACNECPCC2)

18. **Amendments to plans**

The following amendments are to be made to the approved plans:

- The deck along the southern edge of the Spa is to have a minimum setback of 0.9m from the southern side boundary with no. 50 Iluka Road .

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.

19. **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.

20. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

21. **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 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.

22. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

23. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

24. **Implementation of Erosion and Sediment Control Plan**

The Erosion and Sediment Control Plan is to be fully implemented and measures are to remain in effective operation until all development activities have been completed and the site fully

stabilised. Evidence of compliance is to be certified by a suitably qualified engineer and submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect natural features and habitats in accordance with relevant Natural Environment LEP/DCP controls (DACNEDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. **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.

26. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to Council prior to any works being finalized.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

27. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: protection of the environment

28. **Tree and vegetation protection**

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

i) all trees and vegetation within the site not impacted by the development or not proposed for removal, excluding exempt trees under the relevant planning instruments of legislation,

ii) all other 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, with particular reference to Section 4,

ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,

iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

iv) 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,

v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,

vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,

vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,

viii) should either or all of v) vi) and vii) 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.

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

29. No Beachfront Access

Access to the site is not permitted via the adjacent beachfront.

Reason: Natural environment protection (DACNEEDW1)

30. No storage of materials on beachfront

No skip bins or materials are to be stored on the adjacent beachfront.

Reason: Natural environment protection. (DACNEEDW2)

31. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

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

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

32. **Landscape works**

Landscaping is to be implemented in accordance with the landscape plan SPH-04-DA, prepared by Rachel Hudson Architect, and inclusive of the following requirements:

i) screen planting along the side boundaries of the central courtyard encompassing the proposed pool, consisting of shrubs capable of achieving 3 metres in height at maturity, planted at a minimum 300mm pot size, and planted no more than 900mm apart.

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 plans and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

33. **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.

34. **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)

35. **Prior to Occupation Cert: Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

36. **Waste Management Confirmation**

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

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

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

37. **Landscape maintenance**

All landscape components are to be maintained for the life of the development.

A maintenance program is to be established. 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 in accordance with the landscape plan.

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

38. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: preservation of environmental amenity.

39. **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.

40. **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.

41. **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.

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

Signed



Julie Edwards, Planner

The application is determined on 14/06/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments