

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0361
----------------------------	-------------

Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 6 DP 270907, 79 Lorikeet Grove WARRIEWOOD NSW 2102
Proposed Development:	Construction of a swimming pool
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Rodrigo Bertoncini Vallim Lauren Claire Vallim
Applicant:	Jamie King Landscape Architect

Application Lodged:	16/04/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	27/04/2020 to 15/05/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 50,000.00
---------------------------------	--------------

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the construction of an in-ground swimming pool, associated retaining walls and fencing.

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 - D16.5 Landscaped Area for Newly Created Individual Allotments

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

SITE DESCRIPTION

Property Description:	Lot 6 DP 270907 , 79 Lorikeet Grove WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern and northern sides of Lorikeet Grove, Warriewood.</p> <p>The site is irregular in shape with five (5) boundaries and has a surveyed area of 362.7sqm.</p> <p>The site is located within the R3 Medium Density Residential zone pursuant to the Pittwater Local Environmental Plan 2014 (PLEP 2014). A two (2) storey dwelling house is currently being constructed on the site. No significant landscape features are present on site.</p> <p>The slope of the site is 7.9% and falls from the eastern rear boundary towards the western front boundary.</p> <p>The site is identified within the 'Coastal Wetlands Proximity Area' under the provisions of the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).</p> <p>The site is mapped as containing 'Acid Sulfate Soils Class 5' and is identified on the Warriewood Land Release Map pursuant to the PLEP 2014.</p> <p>The site does not contain a heritage item, is not within a heritage conservation area and is not located within the vicinity of a heritage item.</p> <p>The site is not bushfire prone, however is identified within a</p>

'low risk' flood precinct.

The site is burdened by the following easements:

- Easement to drain water 2.5m wide that runs along the western front boundary;
- Easement for access, construction and maintenance 0.9m wide that runs along a large portion of the northern boundary; and
- Easement for access, maintenance and support 0.9m wide that runs contiguous to the eastern rear boundary.

Detailed Description of Adjoining and Surrounding Development

Adjoining and surrounding development comprises recently constructed dwelling houses, in conjunction with numerous unoccupied allotments which are undergoing construction works for residential development.

Map:



SITE HISTORY

The site is part of a recent subdivision and is yet to accommodate any development. A search of Council's records has revealed the following relevant history applicable to this registered allotment:

- Development Application **DA2018/1200** for the construction of a dwelling house approved by Council with deferred commencement conditions on 06 December 2018. The deferred commencement conditions have subsequently been satisfied.

Site Visits

A site visit was undertaken at the subject site on 12 May 2020.

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 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to a Structural Adequacy Report.</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 clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>No submissions were received in relation to this application.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is for construction of a new swimming pool and associated landscaping in the rear yard of the property.</p> <p>A dwelling is currently under construction on the lot approved under CC2019/0789. The landscape design for this will not be impacted by the proposed swimming pool. The approved landscape works in CC2019/0789 will be installed.</p> <p>In terms of landscape outcome the development application is acceptable, subject to conditions.</p> <p>Council's Landscape Referral section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D16.5 Landscaped Area for Newly Created Individual Allotments</p> <p>A Landscape Plan is provided with the DA, and satisfies DA Lodgement Requirements, and in association with the approved landscape works in CC2019/0789.</p> <p>No Arboricultural Impact Assessment report is provided. The site does not contain any trees of significance nor on adjoining property. The existing street trees along the frontage and additionally any existing street trees in the vicinity of the site must be protected during all stages of works.</p>
NECC (Bushland and Biodiversity)	<p>The lot was created as part of an approved subdivision within the Warriewood Valley release area. The site has been previously cleared and is not within or interface with the riparian zone or portion of the parent lot mapped as Biodiversity under the Pittwater LEP 2014. The development will not have a significant effect on biodiversity and therefore no further assessment is required.</p>
NECC (Development Engineering)	<p>Comments 26/5/20</p> <p>An structural engineers report has been provided and recommends additional measures to the existing retaining wall so impacts on the proposed swimming pool are reduced. No objections to the proposed pool subject to conditions.</p> <p>Previous comments.</p> <p>The proposed swimming pool is not supported because a geotechnical/structural engineers report is required to assess the impact of the above retaining wall loads on the proposed pool shell structure . The report is to clearly demonstrate if the pool shell is able to withstand the retaining wall loads or if additional measures including different construction is required.</p>
NECC (Riparian Lands and	<p>This application has been assessed for compliance with the Water</p>

Internal Referral Body	Comments
Creeks)	Management Report for the subdivision of 29-31 Warriewood Road, prepared by Civil Cert and dated 1/1/2018. The applicant's proposal for a swimming pool increases the impervious area of the lot, but overall the lot imperviousness remains within the 65 percent limit set by the water management of the subdivision. The excavation is not expected to intercept groundwater, as the geotech report has identified it will be placed within fill, however; a dewatering condition has been added that will apply to dewatering rain, tailwater or groundwater should it fill the excavation.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid have assessed the application and raised no objections, subject to conditions. The conditions have been included as part of this consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council's records indicate that the allotment is part of a recent subdivision, with no prior development. 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:

Ausgrid have assessed the application and raised no objections, subject to conditions. The conditions have been included as part of this consent.

SEPP (Coastal Management) 2018

The north-western front corner of the site is identified within the 'Coastal Wetlands Proximity Area' under the provisions of the CM SEPP. Accordingly, the proposal is considered against Clause 11 and 15 of the CM SEPP.

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

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

Comment:

The site is located approximate 98m to the east of the nearby coastal wetland. Suitable conditions pertaining to sediment and erosion control have been included with this consent to minimise sediment migration into the nearby coastal wetland. Therefore, it is considered that the proposal will not significantly impact upon the matters prescribed within Clause 11 of the CM SEPP.

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:

Having regard to the nature of the works, in conjunction to the physical separation of the site from the nearby coastal wetland, this assessment concludes that the proposal is unlikely to exacerbate coastal hazards within the locality.

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:	10.5m	1.8m (boundary fence)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Detailed Assessment

7.1 Acid sulfate soils

The excavation works required to accommodate the swimming pool take place on fill. Therefore, the proposal is unlikely to disturb, expose or drain acid sulfate soils and cause environmental damage.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (west)	Behind approved dwelling and >4m	-	Yes
Rear building line	4m (east)	0.9m	77.5%	No
Side building line	0.9m (north)	0.47m (retaining wall)	47.78%	No
	0.9m (south)	15.56m	-	Yes
Landscaped area	45% with minimum 4m x 4m dimensions (163.22sqm)	17.87% (64.8sqm)	55.35%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	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
C1.3 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
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.6 Front building lines	Yes	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
D16.14 Pets and companion animals	Yes	Yes

Detailed Assessment

D16.5 Landscaped Area for Newly Created Individual Allotments

Description of non-compliance

Clause D16.5 of the Pittwater 21 Development Control Plan (P21DCP) requires at least 45% (163.22sqm) of the site area to be landscaped. In calculating this percentage, all landscaped areas with dimensions less than 4m x 4m are excluded from the calculation. The proposed landscaped area represents 17.87% (64.8sqm) of the site area, which fails to satisfy this requirement.

Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the

underlying outcomes of the control as follows:

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

Comment:

Considering the site is part of a recent subdivision within a greenfield area, the site is currently devoid of any trees. The proposed landscape treatments approved under DA2018/1200 will be implemented on site at the completion of the development. The proposed tree planting approved under DA2018/1200 complies with Council's requirements in terms of tree planting.

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

Comment:

The proposed swimming pool will be sited behind the approved dwelling house at the rear of the property. Therefore, the swimming pool will not be to the detriment of the streetscape. The landscape plan approved under DA2018/1200 indicates various landscape treatments within the front setback area, which will contribute to an attractive streetscape.

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

Comment:

The approved landscape plan will provide a high quality landscape setting, which will enhance the ecological amenity of the locality.

- *The area of site disturbance is minimised.*

Comment:

The excavation works required to facilitate the development are confined to the footprint of the pool and located within areas of fill. The remainder of the site will not be disturbed.

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

Comment:

The minimum dimensions of 4m x 4m is difficult to achieve due to the constraints of the small allotment. Landscape areas as defined under the PLEP 2014 means a part of the site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. When landscaping is calculated on this basis, the total landscaped area will represent 42.51% (154.2sqm) of the site area. The proposed landscaped area is suitable for a constrained allotment and will assist with stormwater infiltration, thereby reducing stormwater runoff.

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

Comment:

The landscaped areas throughout the site consist of deep soil areas, which are suitable for canopy tree planting.

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

Comment:

As noted above, the landscape plan approved under DA2018/1200 indicates various landscape treatments within the front setback area, which will soften the visual impacts of the built form and in turn, contribute to an attractive streetscape.

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

Comment:

The landscape plan approved under DA2018/1200 depicts screen planting along the rear and northern side boundary. The aforementioned screen planting will ensure a reasonable level of privacy is maintained between the proposed pool area and northern adjoining property (77 Lorikeet Grove).

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D16.7 Side and rear building lines

Description of non-compliance

Clause D16.7 of the P21DCP requires development to be setback 4m from the rear boundary and 0.9m from side boundaries. The proposed development is setback 0.47m from the northern side boundary and 0.9m from the eastern rear boundary, which conflicts with the requirements of this control.

Merit Assessment

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

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

Comment:

Considering the screen planting will be included along the northern and eastern boundaries (as part of the consent issued under DA2018/1200), no unreasonable amenity impacts are anticipated to arise as a consequence of the proposed pool. Furthermore, given the pool will be screen by the dwelling house, no unreasonable streetscape impacts will arise as a result of the proposed development. In this regard,

it is concluded that the desired future character of the locality will be achieved.

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

Comment:

When considering the PLEP 2014 definition for landscaped area, 42.51% (154.2sqm) of the site area will comprise landscaping. The proposed landscaped area is considered to be sufficient for a 362.7sqm constrained allotment.

- *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 comprises an in-ground swimming pool, associated retaining walls and fencing. The existing dwelling and proposed landscape treatments approved under DA2018/1200 will screen the built form from the street frontage and adjoining properties. In this regard, the development will not present any visual impacts in terms of bulk and scale.

- *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:

As noted above, the proposed development will be screened from the public domain.

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

Comment:

The proposal will enable viable access and landscaping around the perimeter of the property. Furthermore, the proposal allows for greater amenity within the site by allowing for an increased amount of usable open space on a constrained site.

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

Comment:

The proposed development will not compromise any views or vistas, considering the maximum height of the development is 1.8m above the existing ground level (fencing).

- *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:

No trees or significant landscape features are present on the site as the allotment is part of a recent subdivision within a greenfield area. The proposed landscape treatments depicted on the approved landscape plan under DA2018/1200 will soften the built form and in turn, contribute to an attractive streetscape.

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

Comment:

As noted earlier within this report, the screen planting along the northern and eastern boundary will ensure a reasonable level of privacy is maintained between the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

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.

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 DA2020/0361 for Construction of a swimming pool on land at Lot 6 DP 270907, 79 Lorikeet Grove, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sht-101 - Landscape Plan	31 March 2020	Jamie King Landscape Architect
Sht-102 - Landscape Sections	31 March 2020	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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	03 April 2020	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. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated

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

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

3. Prescribed Conditions

- (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) 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 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 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. Existing Boundary Retaining wall works adjacent to the swimming pool

Structural engineering plans are to be prepared in accordance with the recommendations of the structural adequacy report prepared by NTMA consulting (dated 18 May 2020). Details of the underpinning work to the existing boundary retaining wall shall be prepared by a qualified structural engineer and submitted to the certifying authority prior to the issue of the construction certificate.

The underpinning works are to be undertaken by a suitably qualified civil works contractor and inspected and certified by the design engineer prior to pouring of concrete.

Reason: To maintain the structural integrity of the existing boundary retaining wall.

7. 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.

8. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. **Installation and Maintenance of Sediment and Erosion Controls**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

The discharge of sediment-laden waters from the site may result in clean-up orders and/or fines under Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Reason: Protection of the receiving environment

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Road Reserve**

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

Reason: Public safety.

11. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of structural elements to ensure the structure, to boundary setbacks are in accordance with the approved details.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

12. **Protection of existing street trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages.

Existing tree guards shall be maintained in place. Should any street tree along the site frontage not contain a tree guard or the existing tree guard is damaged during works, tree protection fencing consisting of a four sided 1.8m high x 2.4m length standard wire mesh construction fence, in accordance with Australian Standard AS 4687-2007 - Temporary Fencing & Hoardings, shall be installed around the tree for the duration of the works.

Any street tree damaged or removed shall be replaced at a container size of 200 litres, and in accordance with guidelines provided by Council.

Reason: to retain and protect tree planting on development sites.

13. **Dewatering Management**

Where a one-off instance of dewatering of groundwater or tailwater is required during works, Council's Catchment Team must be notified of your intention to discharge. Notification must be via the Team's email address - catchment@northernbeaches.nsw.gov.au.

Discharge must achieve the following water quality targets in addition to any conditions/documentation of this consent, Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

Preliminary testing of groundwater/tailwater must be conducted by a NATA accredited laboratory to establish a correlation between NTU and TSS. This will allow the use of grab sampling at short notice prior to planned discharges.

Grab samples from at least three locations must be collected **within 1 hour of discharge** that comply with the parameters in the table below.

Parameter	Criterion	Method	Time Prior to Discharge
Oil and grease	No visible	Visual inspection	<1 hour
pH	6.5- 8.5	Probe/meter	<1 hour
Total Suspended Solids (TSS)	<50mg/L	Meter/grab sample measures as NTU	<1 hour

All records of approvals, water discharges and monitoring results are to be documented and kept on site. Records must include a diagram showing testing locations, and photos of the water to be discharged at the time of testing. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted. Where there is no stormwater pit within 100 metres of the site, Council's Catchment Team must be contacted to discuss alternative arrangements.

Reason: Protection of the receiving environment

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

14. **Landscape works completion**

Landscape works shall be completed in accordance with the Landscape Plans Sht-101, Sht-102, and Sht-103 prepared by Jamie King Landscape Architect.

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 landscape plan.

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

15. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

16. **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.

17. **Waste Management Confirmation**

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

Details demonstrating compliance must be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

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

18. **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.

Landscape works shall be maintained for a minimum period of 12 months following practical completion.

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

19. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

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

Signed



Thomas Burns, Planner

The application is determined on 27/05/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments