

Business Hours:
8.00am to 6.00pm, Monday to Thursday
8.00am to 5.00pm, Friday

S96 No: N0282/14/S96/2

14 November 2016

NEYDAUB PTY LTD
1207/61 MACQUARIE STREET
SYDNEY NSW 2000

Dear Sir/Madam

N0282/14/S96/2 Modification of Development Consent N0282/14 for Swimming pool and spa with associated pool side deck and access stairs to residence at 20 SUNRISE ROAD PALM BEACH NSW 2108.

Your request for modification has been considered by Council and it has been agreed to modify the Consent.

Please find attached the consent as modified.

If there are any matters that require further clarification, please do not hesitate to contact me.

Yours faithfully

Nick Armstrong
PLANNER

MODIFICATION OF DEVELOPMENT CONSENT NO: N0282/14

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION

OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

**NEYDAUB PTY LTD
1207/61 MACQUARIE STREET
SYDNEY NSW 2000**

Being the applicant in respect of S96 Modification Application No N0282/14/S96/2

Pursuant to section 81 of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of this Development Application for: -

N0282/14/S96/2 Modification of Development Consent N0282/14 for Swimming pool and spa with associated pool side deck and access stairs to residence.

At:-

Lot 140 DP 11552

**20 SUNRISE ROAD
PALM BEACH NSW 2108**

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- Architectural Drawings 411802, 411803, prepared by Peter Glass and Associates, dated 18 June 2014 and 10 August 2014;
- Geotechnical Risk Management Report MP 29515, prepared by Jack Hodgson and Consultants, dated 31 July 2014;
- Arboricultural Impact Assessment Report RTC8414[2], prepared by Rain Tree Consulting, dated 16 August 2014;
- BASIX Certificate A197384, dated 20 August 2014.

As further modified by:

- Architectural Drawings 4118_02, Issue C, prepared by Peter Glass & Associates, dated 05/06/2015;
- Landscape Plating Plan 4118_03 Issue B, prepared by Peter Glass & Associates, dated 05/06/2015;
- BASIX Certificate, A197384_02, dated 18/06/2015;
- Arboricultural Impact Assessment Letter, 20 Sunrise Road, prepared by rainTree Consulting, dated 18/06/2015;
- Geotechnical Risk Management Letter, Ref. MP 29515A, prepared by Jack Hodgson Consulting, dated 11/06/2015.

As further modified by

- **Architectural Drawings S-96 05, Revision B, prepared by Rice Daubney Architects, dated 07/10/2016;**
- **Architectural Drawings S-96 06, Revision B, prepared by Rice Daubney Architects, dated 10/10/2016;**
- **Landscape Planting Plan S-96 04 Issue A, prepared by Rice Daubney Architects, undated**

- **Arboricultural Impact Assessment Letter, 20 Sunrise Road, prepared by rainTree Consulting, dated 18/06/2015;**
- **Geotechnical Risk Management Letter, Ref. MP 29515A, prepared by Jack Hodgson Consultants, dated 11/06/2015.**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of these conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act, pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Note: For ease of reference, all of the previous conditions have been re-listed. Those conditions amended or deleted have been highlighted.

Endorsement of date of consent 19/09/2014, Modified 14/8/2015, **Modified 10 November 2016**

Mark Ferguson
INTERIM GENERAL MANAGER

Per:

Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - (a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (c) that unauthorised entry to the work site is prohibited.

The sign must 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.

4. 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:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) The name and licence number of the principal contractor, and
 - (ii) The name of the insurer by which the work is insured under Part 6 of that Act.
 - (b) in the case of work to be done by an ownerbuilder:
 - (i) The name of the ownerbuilder, and
 - (ii) If the ownerbuilder is required to hold an ownerbuilder permit under that Act, the number of the ownerbuilder permit.
 - (c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above 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

5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) 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.
6. All commitments listed in the BASIX Certificate A197384 shall be complied with.
7. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
8. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. The commitments identified in the BASIX Certificate, A197384, and on the plans or specifications are to be fulfilled and maintained for the life of the development.
2. 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.
3. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Jack Hodgson Consultants are to be incorporated into the construction plans.
4. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
5. No environmental weeds are to be planted on the site. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
6. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
7. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
8. Any vegetation planted onsite outside approved landscape zones is to be consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website http://www.pittwater.nsw.gov.au/environment/species_lists

9. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
10. The spa/pool backwash and any overflow waters are to be disposed to the Sydney Water sewer.
11. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted BASIX certificate.
12. Landscaping is to be implemented in accordance with the approved Landscape Plan (Rice Daubney, S-96 04, Issue A, undated). The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.
13. All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.
14. In accordance with Pittwater Councils DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
15. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.12012, Safety barriers for swimming pools
16. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.
 - (a) The warning notice (i.e. sign) must contain all of the following words:
 - (i) **YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL"** and
 - (ii) **POOL GATES MUST BE KEPT CLOSED AT ALL TIMES"**, and
 - (iii) **KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES"**,
 - (b) In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
 - (c) that are set out in accordance with the relevant provisions of that Guideline, and
 - (i) that comply with the other relevant guidelines of the Australian Resuscitation Council, and
 - (ii) that are illustrated by drawings with key words only in bold print,
 - (d) a statement to the effect that formal instruction in resuscitation is essential,
 - (e) the name of the teaching organisation or other body that published the sign and the date of its publication.
17. The finished surface materials, including colours and texture of any building, shall match the detail and materials of the existing building.

18. A qualified acoustic engineer is to certify that the maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level, when measured from any adjoining properties.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - (a) after excavation for, and prior to the placement of, any footings, and
 - (b) prior to pouring any insitu reinforced concrete building element, and
 - (c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - (d) prior to covering waterproofing in any wet areas, and
 - (e) prior to covering any stormwater drainage connections, and
 - (f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.
4. Construction works approved by this consent must not commence until:
 - (a) Construction Certificate has been issued by a Principal Certifying Authority
 - (b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - (c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. Plans and details demonstrating that the commitments identified in the BASIX Certificate, A197384, that apply to the construction certificate plans and specifications are fulfilled.
6. 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.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
3. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
4. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
5. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
6. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
7. No skip bins or materials are to be stored on Council's Road Reserve.
8. A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - (a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - (b) That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - (c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - (d) That no skip bins or materials are to be stored on Council's Road Reserve.
 - (e) That the contact number for Pittwater Council for permits is 9970 1111.
9. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by rainTree consulting, dated 16 August 2014 are required to be complied with before and throughout the development period, particularly with regard to the following:
 - (a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and

- parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
- (b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - (c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - (d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - (e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
10. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.
11. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.
12. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist letter by rainTree consulting, dated 18 June 2015 are required to be complied with before and throughout the development period.
13. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction.

Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-

wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.

3. Certification is to be provided that the commitments identified in the BASIX Certificate, A197384, have been fulfilled.
4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
5. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
6. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (rainTree consulting, 16 August 2014) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.
7. Street numbers are to be affixed to a structure on the site, visible from the street, prior to occupation.
8. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report and Letter (rainTree consulting, 16 August 2014 and 18 June 2015) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.

G. Advice:

1. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (onthespot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge

the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.

4. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
5. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the Environmental Planning and Assessment Act, 1979 (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. No bush rock is to be removed from site or destroyed without prior approval from NSW Office of Environment and Heritage (OEH) and Pittwater Council. The removal or destruction of bush rock has been listed as a Key Threatening Process by the Threatened Species Conservation Act 1995. Bush rock within an approved building footprint is to be reused elsewhere onsite as a habitat feature.