

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0749
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 28 DP 233779, 4 Yachtsmans Paradise NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Timothy Alan Fussell Kerrie Anne Fussell
Applicant:	Timothy Alan Fussell Kerrie Anne Fussell

Application Lodged:	15/07/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	30/07/2019 to 13/08/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 125,000.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the following alterations and additions to an existing residential dwelling:

- Construction of an in-ground swimming pool
- Construction of a BBQ area to the rear deck, including a sink.
- Construction of a timber privacy screen with louvres above to the eastern side of the deck.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

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

Pittwater 21 Development Control Plan - D10.12 Landscaped Area - General

SITE DESCRIPTION

Property Description:	Lot 28 DP 233779 , 4 Yachtsmans Paradise NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Yachtsmans Paradise.</p> <p>The site is irregular in shape with a frontage of 20.1m along Yachtsmans Paradise and a maximum depth of 37.88m. The site has a surveyed area of 727.2m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two (2) storey residential dwelling.</p> <p>The site has a southerly orientation and is located on a relatively flat block.</p> <p>The site has hedging along the rear northern boundary, with vegetation located along the front boundary line. A tree is located along the eastern boundary. The front and rear yards have areas of turf.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one (1) and two (2) storey residential dwellings.

A site visit was conducted on 9 September 2019 with the owner of the subject site present. A site visit was also conducted at the adjoining property, being 2 Yachtsmans Paradise, with the owners present.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

14 May 2009

A Development Application (N01728/09) was submitted to Council for alterations and additions to an existing dwelling. This application was approved on 26 June 2009, subject to conditions. A Construction Certificate (CC0224/09) for this consent was lodged with Council on 6 July 2009. An Occupation Certificate (OC2009/3353) was submitted to Council on 4 June 2010.

14 August 2019

A Withdrawal Request letter was sent to the applicant, Vaughan Milligan Development Consultant, based upon comments from Council's Development Engineer. The applicant satisfied the matters raised by Council's Development Engineer and the application was, subsequently, not withdrawn. The original and updated comments from Council's Development Engineer can be found under the 'Referrals' section of this report. Additionally, an Arborist Report was provided to Council on 26 September 2019 to assess the existing Bay Tree located within the rear yard of 2 Yachtsmans Paradise but within 5m of the proposed excavation of the swimming pool.

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>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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</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 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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	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.
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>(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 / 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:
Mr Douglas Gordon	2 Yachtsmans Paradise NEWPORT NSW 2106

Name:	Address:
Macdougall	

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

- Location of pool pump and filter.
- Excavation works located near established Bay Tree.
- Use of excavated material on site.
- Privacy

The matters raised within the submissions are addressed as follows:

- **Location of pool pump and filter**

Comment:

Concern has been raised by the owner of 2 Yachtsmans Paradise with regards to the proposed location of the pool pump and filter. This is discussed in detail within this report under section C1.6 Acoustic Privacy.

- **Excavation works located near established Bay Tree**

Comment:

The proposed swimming pool will require excavation, and any excavation works within 5m of a tree is required to have an Arborist Report. The north-eastern corner of the swimming pool will be located approximately 3.6m from the tree, which is within the 5m parameter as outlined under *Control B4.5 Landscape and Flora and Fauna Enhancement Category 3 of P21 DCP*. An Arborist Report was submitted to Council on 26 September 2019 with recommendations of construction to ensure the excavation works do not impact upon the root system of the tree in question. Furthermore, Council's Landscape Officer has reviewed the application and accompanying Arborist Report and has advised that there are no issues in relation to the development, and the construction of the pool in the proposed location is acceptable, subject to conditions.

- **Use of excavated materials on site**

Comment:

A Northern Beaches Council Waste Management Plan has been provided with this application. This plan states that the excavated material, approximately 25m³, will be disposed of off site. Conditions of consent will be recommended to ensure the provided waste management plan is adhered to during and after the development.

- **Privacy**

Comment:

Concern has been raised by the owners of 2 Yachtsmans Paradise with regards to the potential privacy impacts on their site due to the siting of the swimming pool being too close to their property. The proposed swimming pool will be located a minimum of 1.9m from the private open space of the adjoining property, being 2 Yachtsmans Paradise, which is within the prescribed 9m parameter of *C1.5 Visual Privacy*. However, an existing 1.8m high lapped and capped fence, as well as existing landscape planting, will reasonably protect the development and adjoining properties from direct overlooking. A further discussion regarding potential privacy impacts have been addressed further within this report under control *C1.5 Visual Privacy*. It is also noted that the proposed works are compliant but the side boundary setback requirements.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>The site is clearly within Class 5 and Class 3 acid sulfate designation. Of particular note is the swimming pool in the Class 3 area.</p> <p>Class 3 is defined :</p> <p>Acid sulfate soils in a class 3 area are likely to be found beyond 1 metre below the natural ground surface. Any works that extend beyond 1 metre below the natural ground surface, or works which are likely to lower water table beyond 1 metre below the natural ground surface, will trigger the requirement for assessment and may require management.</p> <p>Although a small area is impacted for the pool where the water depth is 1.6m the excavation and pool shell and coping will likely mean a greater depth. Triggering an acid sulfate management plan.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The plans indicate construction of a pool in the rear yard over an area which is currently turfed.</p> <p>No trees are proposed to be removed to accommodate the works.</p> <p>An Arborist's Report was provided as additional information addressing 1 x <i>Laurus nobilis</i> (Bay tree) adjacent to the boundary on the adjoining property to the east. The tree is described as being in Fair/Poor health, Fair/Poor condition and of Low retention value</p> <p>The Report indicates the pool to be located on the edge of the calculated Structural Root Zone of the tree, at 2.7m radius. Based on calculations provided in the Arborist's Report, my calculation is the at the SRZ is 2.2m from the tree, with the pool clear of this area.</p> <p>Notwithstanding the above, it is considered that in this instance, the pool can be constructed in the proposed location subject to conditions, including hand digging as indicated in the Arborist's Report.</p> <p>No objections are raised to approval subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	<p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.6 Wildlife corridors.</p>

Internal Referral Body	Comments
	<p>The proposal is for the alterations and additions to the existing dwelling including the construction of a new swimming pool. No native trees or vegetation proposed for removal.</p> <p>Council's Natural Environment - Biodiversity section supports the application.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>12 Development on land within the coastal vulnerability area</p> <p><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> <ul style="list-style-type: none"> (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> (b) <i>the proposed development:</i> <ul style="list-style-type: none"> (i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> (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> (iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> (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><u>Comment:</u> Part of the subject land has been included under the 'Coastal Use Area' and 'Coastal Environment Area' maps but not been 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.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p>
NECC (Development Engineering)	<u>Original Comments 13 August 2019</u>

Internal Referral Body	Comments
	<p>The subject site is burdened by a Council drainage easement and pipeline. The proposed pool is located adjacent to the easement and as such the applicant is required to demonstrate compliance with Pittwater Council's Pittwater 21 DCP 2014 Clause B5.12 Stormwater Drainage Systems and Natural Watercourses, Structures Over and Adjacent to Easements, Piped Drainage System or Natural Watercourses. This consists of accurately locating, confirming dimensions and plotting Council's stormwater pipelines and associated infrastructure to scale on the DA plans which show the proposed works. This should be carried out by a service locating contractor and registered surveyor. (The applicant will need to provide evidence of methodology used for locating). The stormwater maps can be viewed by following the below instructions.</p> <p>Northern Beaches Council has public stormwater drainage maps online. Please follow the relevant link below and select the 'Stormwater' map from the 'No Overlay Map' drop down menu. You can then search by address and use the zoom functionality to see pipe diameters and asset id numbers. https://services.northernbeaches.nsw.gov.au/icongis/index.html</p> <p>THIS INFORMATION IS PROVIDED UNDER THE FOLLOWING CONDITIONS: The information shown on the stormwater drainage map is indicative only and outlines the approximate locations of Council-owned stormwater infrastructure according to Council's records. Please note that there may be drainage assets in place that Council do not have records of, or infrastructure that has been upgraded, replaced or removed since this information was recorded. Confirmation of the location and condition of the infrastructure and/or easements should be obtained prior to any of the following being carried out: (a) construction work; or (b) design work; or (c) purchase of the property; or (d) other actions relevant to Council stormwater infrastructure.</p> <p>Northern Beaches Council does not warrant that the data does not contain errors. Northern Beaches Council shall be in no way liable for any loss, damage or injury as a result of the use of this data. Northern Beaches Council has the copyright of this data and it should not be passed on to anyone, without the consent of Northern Beaches Council's Stormwater Assets Engineer or Stormwater Assets Technician.</p> <p>The proposed excavation for the pool exceeds 1.5 metres in depth and as such a Geotechnical report addressing the requirements of the Geotechnical Risk Management Policy for Pittwater is required for the proposal.</p> <p>Development Engineers cannot support the application due to insufficient information to address clauses B5.12 and B8.1 of Pittwater</p>

Internal Referral Body	Comments
	<p>21 DCP 2014.</p> <p><u>Updated Comments 6 September 2019</u></p> <p>The submitted Geotechnical report addresses the relevant DCP controls and the survey locating Council's pipeline is also satisfactory. No objection to approval, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed under: Pittwater 21 DCP B5.8 - Water Quality Pittwater 21 DCP B8.2 - Sediment and Erosion Management SEPP (Coastal Management) 2018 - Coastal Environment Area.</p> <p>As the proposed increase in impervious area (including the swimming pool for the purposes of infiltration) is less than 50sqm, no water quality controls will be applied.</p> <p>The applicant has provided a sediment and erosion control plan. Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed DA generally complies with the flood controls in the LEP and DCP.</p> <p>The site is located in a high and medium flood risk precinct. The 1% AEP level is RL 5.78m AHD.</p> <p>The proposed development application involves the construction of a new swimming pool and minor alterations to the rear of the dwelling. The proposed pool concourse is level with the existing ground level.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal 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:

This Clause is not applicable to the subject site and proposed development.

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:

This Clause is not applicable to the subject site and proposed development.

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:

This Clause has been assessed against the subject site and proposed development by Council's Coast and Catchment officer. No issues were raised in relation to the proposed development and the land being within the Coastal Vulnerability Area.

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:

This Clause is not applicable to the subject site and proposed development.

- (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:

This Clause is not applicable to the subject site and proposed development.

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:

This Clause has been assessed against the subject site and proposed development by Council's Coast and Catchment officer. No issues were raised in relation to the proposed development and the land being within the Coastal Use Area.

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:

This Clause has been assessed against the subject site and it is determined the proposed development will not result in an increased risk to coastal hazards.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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
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Height of Buildings:	8.5m	3.5m	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	6.5m	2.3m	65%	No
Side building line	2.5m (western boundary)	9.5m	N/A	Yes
	1m (eastern boundary)	1.9m	N/A	Yes
Building envelope	3.5m (eastern boundary)	Outside envelope	N/A	Yes
Landscaped area	50%	48.1%	3.8%	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
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.12 Landscaped Area - General	No	Yes

Detailed Assessment

C1.5 Visual Privacy

This control requires private open space areas, including swimming pools, of the subject site or adjoining dwellings to be protected from direct overlooking within 9m. The location of the swimming pool is setback 1.8-2.4m from the eastern side boundary and the rear private open space of the adjoining property is within the 9m parameter. There is 1.8m high lapped and capped fence along this side boundary which will provide a reasonable level of privacy for the occupants of the subject site and adjoining properties.

C1.6 Acoustic Privacy

The proposed swimming pool will result in the pool pump box being located along the eastern side of the existing deck, contained wholly within an acoustic/sound proof box, which will be constructed to Australian Standard(s). The pump box will be located approximately 5.5m west of the neighbouring property, being 2 Yachtsmans Paradise. Upon a site visit it was noted that along the western elevation of 2 Yachtsmans Paradise there are three (3) windows - one (1) for a bathroom, and two (2) for a bedroom. There is a room located on the north-western corner of this dwelling that is currently used for storage purposes. Within the Pittwater 21 Development Control Plan (P21 DCP) there is no requirement that stipulates that a pool pump is to be located a certain distance from a shared boundary. Rather it states that noise generating plants, including pool/spa motors, shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary. It is not a Council requirement to provide an Accoustic Report. As per the plans, the proposed pool pump will be stored in a soundproof box. However, a condition of consent will be included to ensure the pool

pump does not operate during the following times:

- Before 8am or after 8pm on any Sunday or Public Holiday, or
- Before 7am or after 8pm on any other day.

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

Rear Boundary Line

The minimum setback requirement to the rear building line is 6.5m. The proposed swimming pool will achieve a rear setback of 2.3m. This represents a variation of 64.6%. For swimming pools and spas, a 1m minimum setback from the boundary to the pool coping may be permitted, subject to the following:

- *Satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and*
Comment:
There is existing vegetation (hedging) along the rear boundary. This vegetation results in landscape screening that provides a reasonable level of privacy to the occupants of the subject site, and those of adjoining properties.
- *Council is satisfied that the adjoining properties will not be adversely affected, and*
Comment:
The swimming pool will not adversely impact upon neighbouring properties.
- *the pool or spa is not more than 1 metre above ground level (existing), and*
Comment:
The proposed development will result in an in-ground swimming pool.
- *that the outcomes of this clause are achieved without strict adherence to the standards, and*
Comment:
The proposed development achieves the underlying objectives of this control.
- *where the site constraints make strict adherence to the setback impractical, and*
Comment:
The rear yard has a depth of 7m, therefore achieving compliance with the rear setback control, in this instance, is impractical.
- *where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.*
Comment:
Any views held by the adjoining properties will not be adversely impacted.

While the proposal is numerically non-compliant, it is considered to be appropriate and consistent with the underlying objectives of the control, and is therefore supported on merit.

D10.12 Landscaped Area - General

The subject site is located within Area 3 of Landscaped Area Map, therefore the minimum requirement

for landscaped area is 50%. The proposed development results in a minor non-compliance of 48.1%, which represents a variation of 3.8%. Provided the outcomes of the control can be achieved, a variation may be permitted which allows pathways (and the like) of 1m width or less, and 6% of the total site to be included in the overall landscaped proportion of the site. With the variations applied, the proposed landscaped area is increased to 54.1%, thus achieving numerical compliance.

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

Achieve the desired future character of the Locality.

Comment:

Under A4.10 Newport Locality of P21 DCP, the proposed development is consistent with the objectives of the desired future characteristics of Newport. The proposal will achieve a height that is well below the existing tree canopy. Furthermore, the proposal does not result in the removal of native plant species. The bulk and scale of the development is minor in nature, as the proposed swimming pool is in-ground and the alterations to the existing rear deck do not result in an unreasonable amenity impact to neighbouring properties.

The bulk and scale of the built form is minimised.

Comment:

As discussed above, the bulk and scale of the development is minor in nature, as the proposed swimming pool is in-ground and the alterations to the existing rear deck do not result in an unreasonable amenity impact to neighbouring properties. The existing vegetation located along the rear and side boundaries will be retained, thus screening the development from adjoining properties.

A reasonable level of amenity and solar access is provided and maintained

Comment:

The proposal will result in a minor built form (being an in-ground swimming pool), thus providing a reasonable level of amenity and solar access to the subject site and adjoining properties.

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

Comment:

No significant vegetation is proposed to be removed as a result of the proposed development.

Conservation of natural vegetation and biodiversity.

Comment:

No significant vegetation is proposed to be removed as a result of the proposed development.

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

Comment:

The proposed development results in a minor increase to the hard surface area of the site due to the installation of the in-ground swimming pool. However, the retention of landscaping provides a reasonable amount of permeable surface so as to reduce stormwater run-off and minimise soil erosion and siltation of natural drainage channels.

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

Comment:

No significant vegetation is proposed to be removed as a result of the proposed development.

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

Comment:

The proposed development will not result in an unreasonable impact upon the soft surface of the site.

The swimming pool also provides a permeable surface. The existing soft surface of the site will maintain the provision of water infiltration to the water table, stormwater runoff is minimised and a reasonable level of stormwater management is achieved.

While the proposal achieves numerical compliance through the application of variations, it is also consistent with the underlying objectives of the control, and is therefore 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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$ 625 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 125,000.

CONCLUSION

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

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

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs

- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0749 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 28 DP 233779, 4 Yachtsmans Paradise, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sheet 1	4 September 2019	Peter Formosa
Sheet 2	4 September 2019	Peter Formosa

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report	29 August 2019	White Geotechnical Group
Flood Risk Management Report	5 September 2018	Donovan Associates
Arborist Report	23 September 2019	Rain Tree Consulting

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Northern Beaches Council Waste Management Plan	15 July 2019	Vaughan Milligan Development Consultant

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost

of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$625.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$125,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. **Security Bond**

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

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

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

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

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

6. **Construction, Excavation and Associated Works Bond (Drainage)**

A Bond of \$10,000 as security against any damage to Council's stormwater infrastructure burdening the site.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 29 August 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Structures Located Adjacent to Council Pipeline or Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Pittwater 21 DCP 2014 Clause B5.12. A statement of compliance is to be prepared by a suitably qualified Structural Engineer and submitted to Council for approval. The approval from Council is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

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. **Post-Construction Dilapidation Survey**

A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's

Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineeringspecifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post-construction dilapidation report must be submitted to Council for review and Council's acceptance of the report issued to the Principal Certifying Authority prior to the issue of the Construction Certificate. Any damage to Council's stormwater asset is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure.

12. **Acid Sulfate Soil**

Prior to CC

All excavation, below the ground surface must be conducted in accordance with an Acid Sulfate Soil Management Plan prepared by an appropriately qualified person, which is to be submitted to the certifier as the site is in zoned Category 3 Acid Sulfate Soils and excavation will exceed 1m.

Reason: To ensure management of potential acid Sulfate soils.

13. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood

Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Fencing – H1

The proposed open steel fence must be designed to not impede the flow of flood water and meet the requirements of the Flood Prone Land Design Standard in addition to other regulatory requirements. It must be flood compatible with 50-75% of the fence being of an open design between the natural ground level and the flood planning level (RL 6.28). Openings should permit a 75mm sphere to pass through.

The glass safety fence proposed on the existing deck complies as it is parallel with the flow of water.

Recommendations

The development must comply with all recommendations outlined in:

- The Flood Risk Management Report prepared by Donovan Associates dated 5 September 2018

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

14. **Pre-Construction Stormwater Assets Dilapidation Report**

A pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the approval issued to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

15. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with the recommendations in the Arboricultural Assessment and Development Impact report Ref No: RTC-13319 dated 23 September 2019 prepared by RainTree Consulting and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

17. 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. 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.

19. Protection of Adjoining Property - Excavation

Where excavations extend below the level of the base of the footings of a building or Council asset on the lot or an adjoining allotment of land, the person causing the excavation must preserve and protect the building and asset from damage and, if necessary, underpin and support the adjoining building or asset in an approved manner.

Reason: To ensure protection of private and Council's Infrastructure.

20. **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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Pittwater 21 DCP 2014 Clause B5.12.

A statement of compliance is to be prepared by a suitably qualified Structural Engineer and submitted to Council and Council's acceptance of the certification is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure.

23. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

24. **Waste Management Confirmation**

Prior to the issue of an 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, reused and to limit landfill.

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

25. **Tree Protection**

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

26. **Operation of the Pool Pump**

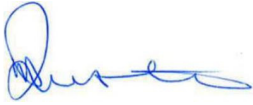
The pool pump is not to operate during the following times:

- Before 8am or after 8pm on any Sunday or Public Holiday, or
- Before 7am or after 8pm on any other day.

Reason: to reduce noise impacts upon neighbouring properties.

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

Signed



Megan Surtees, Planner

The application is determined on 02/10/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments