

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1673
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 19 DP 21687, 47 Elaine Avenue AVALON BEACH NSW 2107
Proposed Development:	Construction of 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:	James Simon Campbell Alicia Jacqueline Campbell
Applicant:	Paul Norman

Application Lodged:	13/10/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/10/2022 to 03/11/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 120,200.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for the construction of a swimming pool pursuant to the *Pittwater Local Environmental Plan 2014* (PLEP 2014).

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 - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.13 Landscaped Area - General

SITE DESCRIPTION

Property Description:	Lot 19 DP 21687 , 47 Elaine Avenue AVALON BEACH NSW 2107
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Elaine Avenue. The site is irregular in shape with a frontage of 15.24m along Elaine Avenue and a maximum depth of 45.085m. The site has a surveyed area of 670.3m². The site is located within the R2 Low Density Residential zone within the <i>Pittwater Local Environmental Plan 2014</i> (PLEP 2014) and accommodates a two (2) storey residential dwelling within a landscaped setting. The site has a westerly orientation and is located on a generally flat block. The rear of the site (approximately 70.0m² up to the rear boundary line) is a dedicated easement for a drainage channel to assist with flooding as the subject site is located with medium and high flood prone land. This easement is approximately 1.89 metres below the existing ground level of the property. The site is not known to have any threatened species. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by residential dwellings to the north, south and west. To the east, beyond the drainage easement, is land zoned SP2 for an Educational Establishment (the Barrenjoey Montessori School at 1-3 Coonanga Road, Avalon Beach).

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:

- Development Application **N0034/17** was submitted to Council seeking consent for the construction of a new dwelling. This application was approved, subject to conditions, on 27 April 2017.
- Modification Application **N0034/17/S96/1** was submitted to Council seeking consent to modify N0034/17. This application was approved, subject to conditions, on 22 August 2017.
- Modification Application **N0034/17/S96/2** was submitted to Council seeking consent to modify N0034/17. This application was approved, subject to conditions, on 30 December 2017.
- A Construction Certificate (**CC2018/0090**) and Notice of Commencement (**NOC2018/0112**) was lodged with Council on 16 January 2018 and 25 January 2018, respectively.
- Modification Application **Mod2020/0460** was submitted to Council seeking consent to modify N0034/17. This application was approved, subject to conditions, on 2 October 2020.
- Modification Application **Mod2020/0621** was submitted to Council seeking consent to modify N0034/17. This application was approved, subject to conditions, on 11 December 2020.
- A Final Occupation Certificate (**FOC2021/1068**) was lodged with Council on 8 September 2021.

APPLICATION HISTORY

Additional information was requested in relation to the provision of amended plans to address concerns raised by Council's Stormwater and Floodplain Engineer, as well as to address planning issues raised by the assessing officer. This information was requested on 20 January 2023. A 7-day final letter requesting the additional information was sent to the Applicant on 28 February 2023. The additional information was provided to Council on 7 March 2023.

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	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 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. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the provision of amended plans to address concerns raised by Council's Stormwater and Floodplain Engineer, as well as to address planning issues raised by the assessing officer. This information was requested on 20 January 2023. A 7-day final letter requesting the additional information was sent to the Applicant on 28 February 2023. The additional information was provided to Council on 7 March 2023. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent

Section 4.15 Matters for Consideration	Comments
	authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 from 20/10/2022 to 03/11/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Richard Temple Menhinick	C/- Atelier Haefeli Pty Ltd 15 Loquat Valley Road BAYVIEW NSW 2104

The following issues were raised in the submissions:

- Acoustic privacy

The above issues are addressed as follows:

- **Acoustic privacy**

The submission raised concerns that the location of the proposed pool pump/filter enclosure will cause unreasonable sound impacts. This submission requests that the pool pump/filter is moved to the northern side of the subject site, adjacent to a piece of land dedicated to infrastructure services.

Comment:

The proposed pool pump/filter will be located approximately 5.2 metres from the neighbouring deck, 7.0 metres from the ground floor of the dwelling, and 10.3 metres from the first floor of the dwelling. Further, the proposed pool pump/filter will be sited within a sound proof enclosure. However, a suitable condition will be recommended to ensure the pump/filter does not produce unreasonable sound levels when in use.

A suitable condition can address this issue.

This issue does **not** warrant reason for refusal of this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal is supported with regard to landscape issues. Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls (but not limited to): • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality An Arboricultural Impact Assessment (AIA) is included in the application and will be assessed as part of the Landscape Referral. No significant trees are proposed to be removed, and the recommendations for tree protection outlined in the AIA are supported, subject to the imposed conditions. Works are proposed within the tree protection zone of three A1 retention value trees, and as such a Project Arborist shall be engaged to supervise the works.
NECC (Bushland and Biodiversity)	The proposal has been assessed against the following provisions: • SEPP (Resilience and Hazards) 2021 - Coastal Use Area and Coastal Environment Area • Pittwater LEP 2014 - cl. 7.6 Biodiversity Protection • Pittwater 21 DCP - cl. 4.15 Saltmarsh Endangered Ecological Community / cl. 4.17 Littoral Rainforest Endangered Ecological

Internal Referral Body	Comments
	Community The proposed development has been submitted with an arboricultural impact assessment report which has concluded that no impacts shall take place on native flora present on the property. The report has also recommended the removal of a dead tree. The proposed development takes place in a previously disturbed site and is unlikely to further impact on native flora and fauna. Additionally, landscaping plans have been provided with the application, presenting "Typical Shrub Planting Detail" as well as "Typical Planting Detail". However, no species list has been put forth. Therefore, species selected for planting should be consistent with the Pittwater Ward section of the Native Gardening Guide available on Council's website.
NECC (Coast and Catchments)	The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience and Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP. Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. Comment: On internal assessment, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. Pittwater LEP 2014 and Pittwater 21 DCP Estuarine Risk Management The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the

Internal Referral Body	Comments
	relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site. On internal assessment , the proposed swimming pool is located above the applicable EPL for the site. The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.
NECC (Development Engineering)	Development application is for construction of concrete swimming pool by excavating to a maximum depth of ~1.5m. Site is burdened by an easement of drainage, proposed works are quite away from the Council pipe within existing easement at rear of site. Geotechnical Report by WHITE GEOTECHNICAL GROUP PTY LTD, Ref No J3919, Dated 7th Dec 2021 is provided. No objections to approval subject to conditions as recommended.
NECC (Riparian Lands and Creeks)	This application was assessed in consideration of: - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy. <i>Riparian</i> The development is within the riparian zone of Careel Creek and as such must not significantly impact on the biophysical, hydrological or ecological integrity surrounding environment, or the quantity and quality of surface and ground water flows that it receives. <i>Sediment Management</i> 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. <i>Swimming pool</i> Swimming pool water must drain to the sewer to ensure environmentally sensitive processing of the water. <i>Water Management</i> Rainwater tank as per BASIX certificate.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<u>Amended Comments 15 March 2023</u> The proposed DA generally complies with the flood controls in the LEP and DCP. The proposed pool is located in a high flood risk precinct. The existing ground level at the proposed pool location is 2.6 m AHD.

Internal Referral Body	Comments
	The proposed pool is inground with the coping set at 2.76 m AHD. An existing sewer line runs under the proposed pool. The pool fence must be of an open design to allow the flow of flood water. <u>Original Comments 14 December 2022</u> The proposed DA does not comply with the flood controls in the LEP and DCP. The proposed pool is located in a high flood risk precinct. The existing ground level at the proposed pool location is 2.6 m AHD. The proposed pool coping is set at 3.20 m AHD in order to allow an existing sewer line to run under the proposed pool. This is not considered to be in ground. The pool coping should be no more than 150mm above the natural ground level. The pool fence must be of an open design to allow the flow of flood water. The proposal is therefore unsupported.
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

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

Comment:

The subject site is located within the coastal environment area under this SEPP. Council's Coast and Catchments Officer has reviewed the proposed development and has thus considered the proposal against the underlying requirements of this Clause and is satisfied the proposal will not cause any adverse impacts upon the coastal environment area.

- 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 subsection (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:

As above, Council's Coast and Catchments Officer has reviewed the proposed development and has thus considered the proposal against the underlying requirements of this Clause and is satisfied the proposal will not cause any adverse impacts upon the coastal environment area.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	1.78m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	6.5m	6.3m - 6.6m	3.07%	No
Side building line	Northern boundary 2.5m	9.3m	N/A	Yes
	Southern boundary 1m	1.0m	N/A	Yes
Landscaped area	50% (335.15m ²)	48.27% (289.8m ²)	3.46%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.17 Swimming Pool Safety	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.9 Side and rear building line	No	Yes
D1.13 Landscaped Area - General	No	Yes

Detailed Assessment

D1.9 Side and rear building line

Detailed description of non-compliance

This control requires development to result in the following setbacks:

- **Side setbacks:**
 - Northern boundary: 9.3m
 - Southern boundary: 1.0m
- **Rear setback:** 6.3m - 6.6m, which presents a maximum variation of 3.07%.

This control permits a variation to the rear setback requirement for swimming pools and spas where a 1.0 metre 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
- Council is satisfied that the adjoining properties will not be adversely affected, and
- the pool or spa is not more than 1 metre above ground level (existing), and
- that the outcomes of this clause are achieved without strict adherence to the standards, and
- where the site constraints make strict adherence to the setback impractical, and
- where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.

Comment:

As detailed elsewhere in this report, the majority of the rear setback area is a concrete drainage channel easement thereby making it impossible to provide a fully landscaped rear setback area. However, between the edge of the pool coping and the drainage channel will remain as landscaped area. The swimming pool is entirely in ground, therefore Council can be satisfied that the adjoining properties will not be adversely affected as a result of the minor rear setback non-compliance. Due to the siting of the existing dwelling and the drainage channel at the rear of the property creates difficulty in achieving strict compliance with this control. However, while this variation allows a 1.0 metre setback, the proposed development seeks a more substantial rear setback distance, with a setback of 6.3 metres at it's closet point, therefore the rear setback distance is considered acceptable. Strict compliance with the requirements of this control will not adversely impact upon the views of adjoining residential properties.

Merit consideration

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

Comment:

Under A4.1 Avalon Beach Locality under the P21 DCP, the proposal is consistent with the objectives of the desired future character of Avalon Beach. The proposed swimming is in-ground, and is a common recreational feature on properties within the Avalon locality. As such, the bulk and scale of the built form is minor with little to no unreasonable amenity impacts to adjoining properties, which further contributes to the enhancement of the locality.

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

Comment:

As detailed above, the proposed swimming pool is in-ground (as indicated in the amended plans provided), which is consistent with the requirements for flood planning within the high flood risk zone to which the subject site is located. As such, the bulk and scale of the proposal has been appropriately managed and minimised with no adverse or unreasonable amenity impacts upon adjoining properties.

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

Comment:

The proposed swimming pool is in-ground. Therefore, the proposal provides an equitable preservation of views and vistas to and/or from public and private places.

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

Comment:

As above, an acceptable level of view sharing can be achieved as the proposed swimming pool, as amended, is in-ground.

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

Comment:

The proposal provides an acceptable level of privacy, amenity and solar access to the occupants of the subject site and to those of adjoining residential properties. An appropriate condition has been recommended to ensure the swimming pool/spa motor noise does not exceed a specific noise level when in use.

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

Comment:

An acceptable level of landscaping will be retained, notwithstanding the minor non-compliance to the numeric requirement of D1.13 Landscaped Area - General (as detailed elsewhere in this report). No canopy trees require removal to facilitate the location of the swimming pool, and the existing streetscape will remain unchanged as the proposed pool is sited in the rear yard, out of view of the streetscape.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

Access throughout the site shall remain.

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

Comment:

As detailed above, the proposal does not require the removal of any substantial vegetation or canopy trees. The built form of the swimming pool is minimal as it is entirely in-ground, with only the swimming pool safety fence being sited above ground. In this instance, the built form is minimal, with no unreasonable amenity impacts arising from the proposal.

- *A landscaped buffer between commercial and residential zones is achieved. (En, S)*

Comment:

The subject site is not adjacent to a commercial zone. There is, however, an SP2 (Educational Facility) to the east, which is sited at the rear of the property. There is ample vegetation between these two zones, thus providing an acceptable landscape buffer.

Notwithstanding the minor non-compliance to the rear setback requirement of this control, the proposal is considered to achieve the underlying objectives of this control. The variation can be supported on its merits.

D1.13 Landscaped Area - General

Detailed description of non-compliance

The subject site is located within Landscaped Area 3, which requires 50% (335.15m²) of the site to be dedicated to landscaped area, in accordance with the definition of landscaped area within the Pittwater LEP 2014. However, it is acknowledged that a portion of the rear yard is a drainage channel bound by an easement. This drainage channel is approximately 70.0m². As this area cannot be used for outdoor recreational use by the residents of the subject site, 70.0m² has been deducted from the overall site area for the purposes of calculating the proposed landscaped area. As such, the subject site currently provides a landscaped area of 343.7m² (or 57.2%), which achieves compliance with the minimum numeric requirement of this control. The proposed development will result in a landscaped area of 289.8m² (or 48.27%), which presents a variation of 3.46%.

Provided the underlying outcomes of this control can be achieved, a variation may be applied where 6% of the total site area, and pathways of 1.0m width or less, can be included within the landscaped area calculation. Including these variations, the proposed development will result in a landscaped area of 54.27%, thereby achieving compliance with the numeric requirement of this control. Notwithstanding, a merit consideration of the proposed development has been undertaken below.

Merit consideration

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

Comment:

Under A4.1 Avalon Beach Locality under the P21 DCP, the proposal is consistent with the objectives of the desired future character of Avalon Beach. The proposal will achieve a height that is well below the existing tree canopy. Furthermore, no native plant species are proposed to be removed as a result of the development. The bulk and scale of the development is minor in nature with little to no amenity impacts to adjoining properties, which further enhances the

character of the locality.

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

Comment:

Amended plans have been received which shows the proposed swimming entirely in-ground, which is consistent with the requirements for flood planning within high flood risk zones. In this instance, the bulk and scale of the proposal has been appropriately managed and minimised with no adversely or unreasonable amenity impacts upon adjoining properties.

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

Comment:

As detailed above, the proposed development provides an acceptable level of amenity and solar access to adjoining properties.

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

Comment:

The rear yard does not have any significant or substantial vegetation that is required for removal to facilitate the location of the proposed swimming pool.

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

Comment:

As above, the proposal does not seek to remove any significant natural vegetation or unreasonably interfere with the biodiversity of the site.

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

Comment:

The existing management of stormwater runoff and infiltration of water into the water table is unlikely to be impacted as a result of the proposed development.

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

Comment:

The subject site is not considered rural or bushland. However, as discussed above, the proposal does not require the removal of any significant vegetation or trees.

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

Comment:

The proposal will result in a minor reduction in soft surface. However, the remaining soft surfaces throughout the site will continue to enable infiltration of water to the water table, minimise stormwater runoff and assist with the ongoing stormwater management.

While the proposed landscaped area is numerically non-compliant, it is consistent with the objectives of the control and is therefore appropriate within the locality. The proposal is supported on merit.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$ 601 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 120,200.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/1673 for Construction of a swimming pool on land at Lot 19 DP 21687, 47 Elaine Avenue, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

1The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
P1 (A) Site Plan / Site Analysis Plan	07.03.23	Right Angle Design & Drafting Pty Ltd
P2 (A) Plan at Rear Yard	07.03.23	Right Angle Design & Drafting Pty Ltd
P3 (A) Pool Plan & Sections	07.03.23	Right Angle Design & Drafting Pty Ltd

Engineering Plans		
Drawing No.	Dated	Prepared By
P4 (A) Sediment Control Plan	07.03.23	Right Angle Design & Drafting Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation (Reference: J3919)	7 December 2021	White Geotechnical Group
Arboricultural Impact Assessment Report (Reference: 220419_47 Elaine Ave_AIA)	19 April 2021	Urban Arbor
Flood Compliance Certificate (Reference: 220037)	27 January 2022	Gilcon Structural Engineers

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	15/08/2022	James Campbell

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Not dated

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

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

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety

- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$601.00 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 (as amended).

The monetary contribution is based on a development cost of \$120,200.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. **Security Bond**

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

An inspection fee in accordance with Council adopted fees and charges (at the time of payment)

is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

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

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

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

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

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 PTY LTD, Ref No J3919, Dated 7th Dec 2021 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Flooding**

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

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.61m AHD.

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level (4.11m AHD), taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

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 to cut electricity supply during flood events.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Details demonstrating compliance are to be submitted to the Certifier 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.

9. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

10. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

11. **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 referenced in Condition 1 of this consent 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 Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

12. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. 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.

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

Reason: To provide public and private safety.

14. Swimming Pools

The backwash of Swimming Pool water must be discharged to Sydney Water's sewer in accordance with Australian/New Zealand Standard AS/NZS 3500. Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

Reason: To ensure compliance with legislation and Australian Standards and to protect public health, amenity and to ensure the protection and preservation of receiving waters.

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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

16. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

a) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- i) tree protection measures under section 11 Tree Protection Requirements,
- ii) works under section 10.4, 10.8, and 12.1,
- iii) additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.

b) Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

c) All tree protection measures specified must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- iii) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

d) Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are

preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

18. 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

19. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

20. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist

with minimum AQF Level 5 in arboriculture on site,
 vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
 viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier must ensure that:

c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

21. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from the Project Arborist during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

22. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained

in a safe condition at all times during the course of the work.

Reason: Public safety.

23. Wildlife Protection

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

24. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

25. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

26. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

27. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

28. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

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

29. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

30. Demonstrate compliance with Flood Management Report

A suitably qualified expert is to certify compliance with the following recommendations in the Flood Compliance Certificate prepared by Gilcon dated 27 Jan 2022:

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

31. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. 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 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, 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 Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

33. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

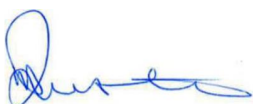
34. **Swimming Pool/Spa Motor Noise**

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

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

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

Signed



Megan Surtees, Planner

The application is determined on 16/03/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments