

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0185
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 10 DP 1257419, 25 Loch Street FRESHWATER NSW 2096 Lot 7 DP 14040, 23 Loch Street FRESHWATER NSW 2096
Proposed Development:	Demolition work and alterations and additions to a dwelling house including a swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Darren Andrew Holland Tania Brenda Holland
Applicant:	Bruce Stafford & Associates Pty Ltd

Application Lodged:	15/03/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/03/2023 to 04/04/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 90,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises the following works;

- Sauna/Gym/Plunge Pools/deck and Lawn area;
- Demolish existing pool*;
- Proposed new rectangular pool; and
- Added privacy screen/Pool gate and landing, and

- Associated Landscaping and ancillary works.

*part of the existing pool such as foundations / pipework may be retained to become part of the new pool if suitable for new construction work.

Note: Plans and documents include overlapping information with the whole of the site and previous house approval on No.23 Loch Street for integration and ease of reference between the two development consents (see Site History for details)

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

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D16 Swimming Pools and Spa Pools

SITE DESCRIPTION

Property Description:	Lot 10 DP 1257419 , 25 Loch Street FRESHWATER NSW 2096 Lot 7 DP 14040 , 23 Loch Street FRESHWATER NSW 2096
Detailed Site Description:	The subject proposal involves two (2) allotments and two (2) dwelling houses on the eastern side of Loch Street, being No.23 and No.25 Loch Street near the intersection with Wyadra Avenue and Bath Avenue. The property of No.23 Loch Street contains a spit level detached dwelling (to be demolished with this proposal),

swimming pool, outbuilding, garage and garden areas. The land falls steeply to the east toward the rear of the house and has extensive stairs, paths and terraced areas. The exiting lot is identified as Lot 7 DP 14040 having a maximum width of 12.575m, length of 50.34m and an area of 633 square metres (sqm).

The property of No.25 Loch Street contains a detached dwelling (to be retained with this proposal), outbuilding, off street parking and garden areas. The land falls steeply to the east at the rear half of the site with two high stone terraces. The exiting lot is identified as Lot 10 DP 1257419 having a maximum width of 15.2m, length of 50.34m and an area of 750.5sqm. A concrete driveway borders the northern boundary, approved for access to No.2 Wyadra Avenue.

Recently No.23 and No.25 Loch Street (which are under the same ownership) received development consent DA2021/1469 for demolition and construction of a new dwelling on No.25 Loch Street with a subdivision to enlarge that property by transferring the lower area of No.23 Loch Street. Therefore No.23 Loch Street is now 883sqm and No.25 Loch Street is reduced to 500sqm. The new boundary line follows a steep escarpment feature near the lower area of the site.

Surrounding development consists predominantly of detached dwelling houses on the eastern side of Loch Street. Directly opposite the site on the western side of Loch Street is a 3 storey residential flat building (No.28 Loch Street), which contains twelve (12) apartments.

The subject site has an easterly aspect with broad coastal views. The surrounding topography is characterised by a natural sandstone escarpment area above Curl Curl foreshore area and therefore the rear of the site descends steeply with natural drainage toward Ellen Street.

The site has a cross fall of up to 10m with shallow soils and sandstone rock outcrops / bedrock visible in parts of the site. A mature Norfolk Island Pine is located on the south-eastern corner No.23 Loch Street with no other large canopy trees on either property. The land is identified as within "Area B" for geotechnical classification, however parts of the land exceed 18 degrees due to retained slope areas.

Map:



SITE HISTORY

Development Application No.DA2011/0861 for "Alterations and additions to a dwelling house" was approved by Council on 11 October 2011. This DA was subject to a modification No.MOD2011/0251 approved on 23 January 2012.

Development Application No.DA2015/1173 for 'alterations and additions to the existing dwelling and construction of a swimming pool and adjoining pavilion'. This application was approved by Council on 19 September 2016. This DA was subject to a modification No.MOD2017/0156 approved on 18 August 2017.

Pre-lodgement meeting No.PLM2017/0115 was held on 5 October 2017 for construction of a three storey dwelling, landscaping and a pool. DA2017/1203 is associated to this PLM.

Development Application No.DA2017/1203 for 'demolition of the existing dwelling and construction of a new dwelling' was approved on 11 July 2018.

Pre-lodgement meeting No.PLM2020/0026 was held on 3 March 2020 for 'site consolidation, demolition works and construction of a dwelling house including excavation, landscaping and ancillary site works. (This concept involved demolition of both dwellings on No.23 and No.25 Loch Street).

Development Application No.DA2021/1469 for demolition works and subdivision (boundary adjustment) maintaining (2) lots and the construction of a new dwelling house, spa pools and associated landscaping works within Lot 102 was approved by Council on 23 March 2022. This is a deferred commencement consent with the following deferred requirement:

"As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be through the downstream properties to the Ellen Street drainage system. The inter allotment stormwater drainage easements are to be created under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Additionally Stormwater drainage plans are to be submitted to Council for written approval detailing the provision of On Site Stormwater Detention and the disposal of stormwater through the downstream easements for connection to the Ellen Street stormwater drainage system in accordance with Council's Water Management Policy."

Once the above registration of the easement is in place then the subdivision of the land can occur for the new dwelling house at No.23 Loch Street. Therefore this proposal for the pool cannot proceed until the boundaries of the new lots are formally created (registered) which is addressed by standard condition for deferred commencement. Therefore construction on the new pool cannot proceed until the subdivision is registered. Then the pool and the dwelling house can be completed concurrently. The subdivision and creation of the lots can occur separately by a Subdivision Certificate, just for subdivision.

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	Warringah 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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested for section drawing and boundary survey at the time of lodgement to assist with the completeness of the application. Following this the proposal was notified. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <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 matter has been addressed via a condition of consent as the proposal includes outbuildings

Section 4.15 Matters for Consideration	Comments
	(including a sauna) <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 matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 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.
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 Warringah 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 21/03/2023 to 04/04/2023 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 Mark Robert Aubrey	14 Ellen Street CURL CURL NSW 2096

The following issues were raised in the submissions of objection to the proposal:

1. Stormwater drainage
2. Privacy outlook and noise

The above issues are summarised and addressed as follows:

- *1. Submissions received raise concerns regarding stormwater disposal*

Comment:

This issue is addressed in detail within this report under the heading "Internal Referrals" (from Council's Development Engineer), *Part C4 Stormwater*. In summary, the proposal remains reliant on the use of an easement to manage and control stormwater, including limiting impact on No.2 Wyadra Street and No.14-16 Ellen Street. This easement has been agreed in principle and is subject to deferred commencement as part of the associated dwelling approval on No.23 Loch Street for DA2021/1469.

- *2. The submissions raise concerns that the proposal will impact privacy including noise by use of the pool and water splashing on a wet edge.*

Comment:

This issue is considered in detail under the heading *Part D8 Privacy* within this report. The principal entry area for No.2 Wyadra Road is near the north east corner of the pool / spa building and therefore a suitable privacy screen will assist to maintain privacy due to the ground level differences there and activity near the shallow end of the pool. This issue is addressed by condition and does not warrant refusal of the application.

Concerns regarding pool water splashing on a wet edge are not apparent as the section diagrams to show this as a feature. This issue is conditioned to ensure a 'wet edge' is not added to the pool design during construction phase. The pool pump motor is required to comply with noise containment (limited to 5dBa) at the property boundary which is to be achieved due to the close (future) dwelling at No.2 Wyadra Road. This issue is addressed by condition and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	Supported with conditions. The application seeks consent for demolition work and alterations and additions to a dwelling house including a swimming pool.

Internal Referral Body	Comments
	The plans indicate that 1 x <i>Araucaria heterophylla</i> (Norfolk Island Pine) located in the rear yard is to be retained, which is supported. In view of removal of a portion of the existing pool within the Tree Protection Zone, conditions have been provided requiring the appointment of a Project Arborist to oversee works within the tree's TPZ. No other issues are raised with regard to landscape issues.
NECC (Bushland and Biodiversity)	Supported with conditions. The proposal seeks approval for demolition work and alterations and additions to a dwelling house including a swimming pool. The comments on this referral relate to the following applicable controls: • Warringah DCP Clause E2 - Prescribed Vegetation • Warringah DCP Clause E4 - Wildlife Corridors • Warringah DCP Clause E6 - Retaining unique environmental features The proposed alterations and additions would take place in a previously disturbed site. Impacts to native flora and fauna are unlikely. However, conditions shall apply to ensure that WDCP Controls are complied with.
NECC (Coast and Catchments)	Supported without conditions. The subject site is not identified as being within the Land Application Map of Chapter 2 Coastal Management, which relates to commitments within a proposed development to ensure that a proposed development protects the environmental assets of the coast. Although the dwelling may not technically be in a coastal zone, its close proximity should be put into account and attentiveness should be made to protect the coastline from the effects of sedimentation and erosion from the site.
NECC (Development Engineering)	Supported with conditions. <u>Revised Engineering referral comments</u> (amended plans 14/6/2023) Stormwater plans submitted are acceptable. No objections to approval subject to conditions as recommend. <u>Original Engineering referral comments:</u> The proposal is for the alterations additions to the outbuildings, pool and landscaping works approved under DA2021/1469. The Stormwater Report by <i>RTS Civil Consulting Engineers</i>, dated 22/2/2023 states that the proposal involves only minor amendments to the previously approved system and connection to the approved stormwater system is still viable.

Internal Referral Body	Comments					
	The approved stormwater design for the development under DA2021/1469 was the site stormwater discharging to an inter-allotment easement line to Ellen Street through an OSD system located at the rear of the site. However the current proposed changes to the rear including the new pool indicates that the location of the OSD tank as approved in the concept plans by <i>ITM Design</i> (H-DA-00, H-DA-01 & H-DA-02 dated 13.07.2021) is no longer viable. Hence an updated stormwater plan is required with the proposed OSD tank location that is consistent with the architectural changes proposed within this application for further assessment. The proposed application cannot be supported by Development Engineering due to lack of information to address: • <i>Stormwater drainage for the development in accordance with clause C4 Stormwater.</i>					
NECC (Water Management)	Supported with conditions. This application was assessed in consideration of: • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy); and • Relevant LEP and DCP clauses The documentation provided has been assessed. Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development. On assessment, the proposal is considered acceptable.					
Strategic and Place Planning (Heritage Officer)	Supported without conditions. <table><tr><th>HERITAGE COMMENTS</th></tr><tr><td>Discussion of reason for referral</td></tr><tr><td>The application has been referred as it is within the vicinity of a local heritage item, being <i>Item 1128 - Building known as 'Stewart House' - 45 Carrington Parade, Curl Curl</i>, listed in Schedule 5 of Warringah LEP 2011.</td></tr><tr><td>Details of heritage items affected</td></tr><tr><td>Details of the heritage item in the vicinity, as contained within the Heritage Inventory, are: <i>Item 1128 - Building known as 'Stewart House' - 45 Carrington Parade, Curl Curl</i> <u>Statement of Significance</u> A representative example of the institutional buildings which were erected in the area to provide health & welfare services associated with the sea. Socially important due to the role that it has</td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	The application has been referred as it is within the vicinity of a local heritage item, being <i>Item 1128 - Building known as 'Stewart House' - 45 Carrington Parade, Curl Curl</i> , listed in Schedule 5 of Warringah LEP 2011.	Details of heritage items affected	Details of the heritage item in the vicinity, as contained within the Heritage Inventory, are: <i>Item 1128 - Building known as 'Stewart House' - 45 Carrington Parade, Curl Curl</i> <u>Statement of Significance</u> A representative example of the institutional buildings which were erected in the area to provide health & welfare services associated with the sea. Socially important due to the role that it has
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Internal Referral Body	Comments		
	played in public health & child welfare since 1930. <u>Physical Description</u> Elevated face brick building of symmetrical design & central entrance. Tiled hipped roof with stepped parapet centrally located above entrance pavillion. Projecting bays at either end. Flat roofed (enclosed) verandahs with terracotta shingle skirts. Circular driveway at front. Central stairway to entrance. Flagpole.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	This application is for amendments to an approved outbuilding, along with a swimming pool and landscaping works, at the rear of the approved Lot 102, which will be known as 23 Loch Street, once the subdivision is registered. The proposed works are located some 90 metres from the heritage building, Stewart House, which fronts Carrington Parade. As a result, it is considered that these works will have no adverse impact on the heritage significance of Stewart House. Therefore no objections are raised on heritage grounds and no conditions required.		
	Further Comments		
	Consider against the provisions of CL5.10 of WLEP 2011: Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A		

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A481593) dated 10 February 2023.

The BASIX Certificate indicates that the development will achieve the following:

Pass Achievable

Commitment	Required Target	Proposed
Water	40	Achievable
Thermal Comfort	Pass	Achievable
Energy	50	Achievable

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

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 application was not required to be referred to *Ausgrid* as none of the above criteria apply.

Other Service Infrastructure Authorities

The proposal was not required to be referred to *Transport for NSW* and no other referral authority

issues are raised pursuant to the SEPP. The requirements of *Sydney Water* are managed by separate processes administered directly through *Sydney Water*.

SEPP (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.

Warringah Local Environmental Plan 2011

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	5.8m to 1.8m (from existing ground) (Spa / Sauna building attached to pool) Pool coping is up to 2.9m above EGL SE corner of pool below EGL	Nil	Yes

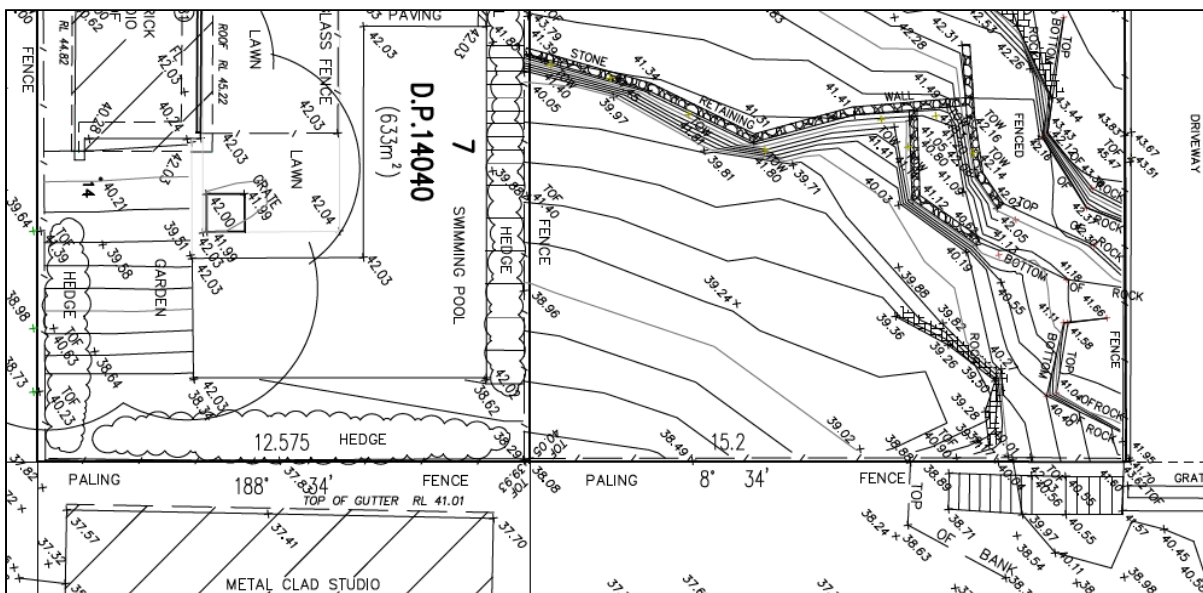


Image: Site levels at rear of site and existing pool to be changed to construct new pool along width of site.

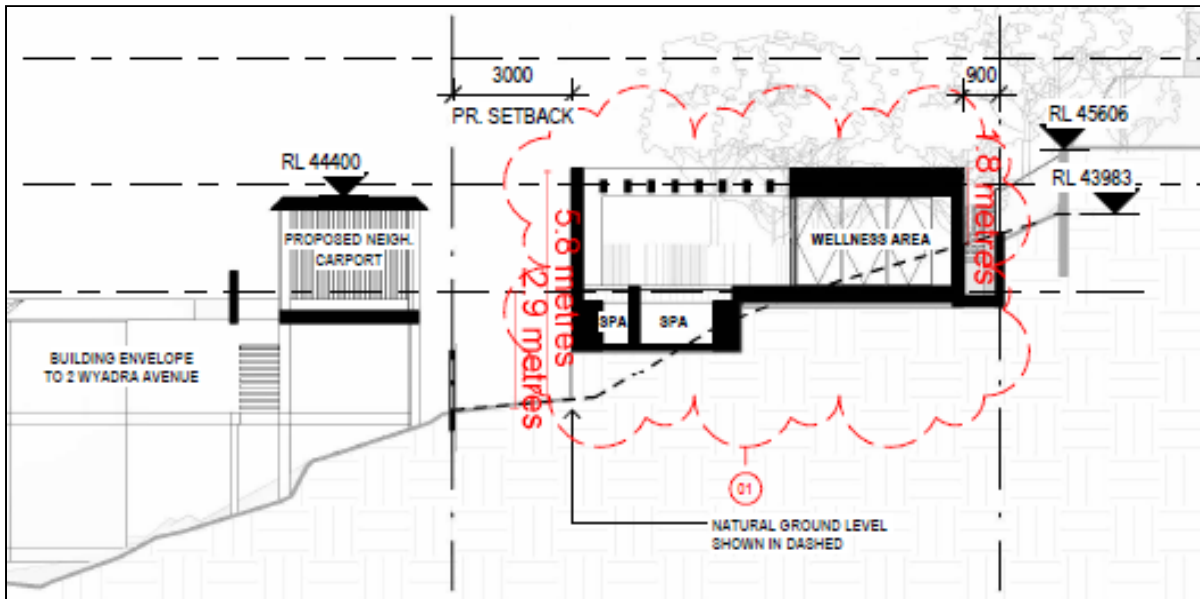


Image: Height of building and relationship to adjacent land entry area near pool shallow end.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The objectives and requirements of Clause 6.2 Earthworks are considered as follows:

- *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- *to allow earthworks of a minor nature without requiring separate development consent.*

Comment

- The site has been assessed for geotechnical conditions as per the previous consent that included works and an outbuilding in this location of the pool.

- The geotechnical recommendations of that report will be implemented with that consent to ensure appropriate risk management.
- The proposal has been provided with a new OSD design to replace the previous to ensure no detrimental effect on drainage patterns.
- Conditions of the consent also ensure soil stability during works.
- Conditions are also applied to ensure natural site levels along the low side of the site are consistent and no unreasonable impact from fill.
- The site works are unlikely to contain relics (conditions for aboriginal heritage are already applied to the site) or affect drinking water.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported / is not supported, in this particular circumstance.

Warringah Development Control Plan

Built Form Controls

No.23 Loch Street (Demolition of existing house)

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	2.7m Sauna	N/A	Yes
B3 Side Boundary Envelope	5m at 45 degrees North	Within envelope	N/A	Yes
	5m at 45 degrees South	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	2.0m North	0.9m Basement	N/A	Yes
	0.9m South	0.9m Basement	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.5m Dwelling wall	N/A	Yes
B9 Rear Boundary Setbacks (Ancillary structures permitted up to 50% setback area)	6.0m	3.0m to pool edge 3.0m to spa building	N/A	Yes (41% encroachment)

D1 Landscaped Open Space (LOS) and Bushland Setting (Proposed site area 883sqm)	40% (353sqm)	41.9% (370sqm))	N/A	Yes
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*See detailed merit assessment under the heading Built Form Controls within this report.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

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

Merit consideration:

- To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal maintains 3m setback to the rear fence and 2m to the northern side boundary which will have landscape areas and screen planting. The section diagrams show that continuity between adjacent existing ground levels is proposed to minimise backfill and retaining walls along the fence-line to minimise cross-boundary issues.

- To create a sense of openness in rear yards.*

Comment:

The proposed pool is within a landscaped setting and the pool outbuilding is for relaxation / recreation which includes part open sided spa area and outdoor pool area room. These structures take up less than 50% of the rear yard areas and overall the rear yard will have predominantly be open area.

- To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The pool is set at ground level with part above ground on the low side due to the slope of the land. The pool and outbuilding face into the centre of the side and not toward the rear neighbour. Landscape planting and privacy screens will be provided to assist privacy amenity appropriate to an urban residential environment.

- To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The pool is in the lowest part of the site and the surrounding pattern of development is dominated by large size dwelling, often including pool structures and outbuildings. The site will retain major trees and provide new landscape setting for the property similar to the visual continuity of the surroundings to achieve this objective.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

Suitable setback buffers and privacy screening, landscaping and building locations are proposed to ensure normal casual privacy between adjacent dwellings to achieve this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C4 Stormwater

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

Merit consideration

- *To ensure the appropriate management of stormwater.*

Comment:

The use of an easement and pipework connection through to Ellen Street will assist with normal stormwater management. The site is on sloping rocky land with runoff naturally flowing toward the Curl Curl foreshore and the previously approved subdivision works as well a house and pool includes drainage works to provide appropriate management of stormwater for the natural surroundings. Council's Development Engineering have previously considered stormwater management for the land with development works and the proposed works will incorporate and augment to those works. The pool backwash is required to connect to sewer and landscaping buffer along the rear fences allows space for stormwater management and landscape planting. Stormwater management details have been provided by the applicant and subject to engineering conditions as recommended the proposal is suitable.

- *To minimise the quantity of stormwater run-off.*

Comment:

The site is permitted to have natural runoff from grassed / garden areas as natural overland flow and the use of an easement for roof water and similar hard surface areas to take the water directly to Ellen Street will assist to prevent nuisance flows by natural overland and subsurface water with reduced saturation / discharge. This easement is part of the previous DA on the site for the new dwelling and subdivision.

- *To incorporate Water Sensitive Urban Design techniques and On-Site Stormwater Detention (OSD) Technical Specification into all new developments.*

Comment:

The OSD Technical Specification and Council's Water Management Policy includes various options to dispose of water and including minimising risks / nuisance to downslope water receivers as far as practicable. In this case, the connection to an easement to transfer water is appropriate for the site due to the steep sandstone terrain and subdivision / redevelopment works. The pool backwash will be connected to sewer.

- *To ensure the peak discharge rate of stormwater flow from new development is no greater than the Permitted Site Discharge (PSD).*

Comment:

The use of an easement will ensure the sustainability of peak discharge can be acceptably managed by a piped system direct to Council's connection and council policy in Ellen Street. Subject to engineering conditions, the pool area does not create an unreasonable impact on peak discharge.

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

D8 Privacy

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

Merit consideration

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The pool is situated in a position 3m away from the rear fence and the spa / gym ("wellness") building is 2m off the northern boundary. The adjacent dwelling (to be constructed) is close to the north eastern corner and has its entry point near this. Therefore a privacy screen is recommended to extend 1.5m out from the spa building along the eastern edge of the pool (shallow end). The low side of the pool is above EGL and while there is some hedge screening shown the ground level has shallow rock area and therefore a fixed privacy screen will provide a higher level of visual screening. The noise activity from use of the pool is consistent with residential area however conditions are recommended for 5dBa limit on pool equipment motors to maintain acoustic privacy to neighbours.

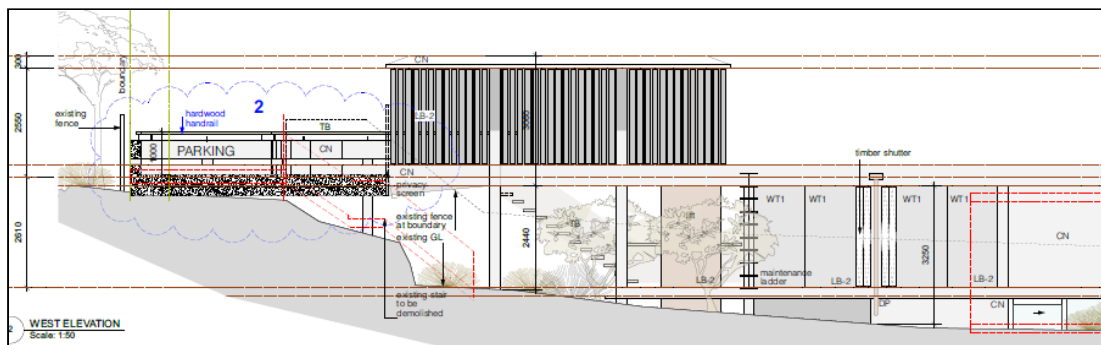


Image: Outline of 2 Wyadra road and entry area with bedrooms adjacent and carport above.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposed pool and outbuildings are intended to utilise the lower part of the site that is currently inaccessible and will enable a new larger pool for No.23 Loch Street. The pool is at ground level on the inside edge and marginally out of the ground on the low side due to the slope of the land. A landscape buffer is provided around the northern and eastern side. Suitable drainage infrastructure will be put in place to assist with drainage management.

- *To provide personal and property security for occupants and visitors.*

Comment:

The position of the pool is not in a location that is easily accessible by the public or in an elevated position.

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

D16 Swimming Pools and Spa Pools

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

Merit consideration

- *To ensure swimming pools and spas are located to preserve the natural environment, streetscape and residential amenity.*

Comment:

The proposal involves demolishing the existing pool and constructing a new pool along the eastern boundary 3m from the fence line with paving areas, pool outbuildings and garden landscape areas. The pool is not readily visible from the street and is in an excavated position, but due to the slope the low side is above existing ground level. A landscape buffer will be retained along the low side. The rear fence line is a 1.8m high paling fence and with landscape planting assist to maintain residential amenity to the east of the site. The pool will be provided in a landscaped setting and will maintain a similar landscape setting to the pattern of surrounding development.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The new pool (to replace an existing pool) is to be sited parallel to the rear fence line with a 3m landscape buffer. To the south side the existing deck area is to remain and the old pool

demolished. The pool area is at or close to existing ground level in order to minimise privacy impacts to surrounding land. The site is fenced with timber paling fencing along the rear boundary and the adjacent property to the east has approval for a garage and dwelling which has a limited number of windows to ensure minimal privacy impacts.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly 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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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;
- Warringah Local Environment Plan;
- Warringah 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 DA2023/0185 for Demolition work and alterations and additions to a dwelling house including a swimming pool on land at Lot 10 DP 1257419, 25 Loch Street, FRESHWATER, Lot 7 DP 14040, 23 Loch Street, FRESHWATER, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by *RTS Civil Consulting Engineers*, dated 14/6/2023. The easement is to be created under Sections 88B and/or 88K of the *Conveyancing Act 1919*. The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

2. Registration of Land Title

Proposed Lot 101 and proposed Lot 102 in the approved plan of proposed subdivision of Lot 7 DP 14040 and Lot 10 DP 1257419, as per development consent No.DA2021/1469, must be registered with the *NSW Land Registry Services* (Land Titles Office) in order to legally create the land to which this consent applies.

This will require the applicant to submit the applicable Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the *Conveyancing Act 1919*, four copies of the final plan of subdivision and all relevant documents including electronic copies. Easements, rights of carriageway, positive covenants and restrictions as to user are to be shown.

This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

3. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-101	A	Site Plan / Roof Plan	Stafford Architects	13.2.2023
DA-110	A	Demolition	Stafford Architects	13.2.2023
DA-201	A	Pool Level	Stafford Architects	13.2.2023
DA-301	A	East and South Elevation	Stafford Architects	13.2.2023
DA-321	A	Section AA + BB	Stafford Architects	13.2.2023
DA-322	A	Section CC	Stafford Architects	13.2.2023

Landscape Drawings				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
LDA-01	C	Landscape Site Plan	Secret Gardens	22.12.2022
LDA-02	C	Demolition	Secret Gardens	22.12.2022
LDA-03	C	First Floor Landscape Plan	Secret Gardens	22.12.2022
LDA-04	C	Plant Schedule	Secret Gardens	22.12.2022

Engineering Drawings				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
SW001	A	Coverpage, Notes and Calculations	RTS Civil Consulting Engineers	14.6.2023

SW100	A	Conceptual Stormwater Management Plan	RTS Civil Consulting Engineers	14.6.2023
SW101	A	Ground Floor Stormwater Management Plan	RTS Civil Consulting Engineers	14.6.2023
SW102	A	Lower Ground and First Floor Stormwater Management Plan	RTS Civil Consulting Engineers	14.6.2023
SW103	A	Roof Stormwater Management Plan	RTS Civil Consulting Engineers	14.6.2023
SW200	A	Stormwater Drainage Details Sheet 1 of 3	RTS Civil Consulting Engineers	14.6.2023
SW201	A	Stormwater Drainage Details Sheet 2 of 3	RTS Civil Consulting Engineers	14.6.2023
SW202	A	Stormwater Drainage Details Sheet 2 of 3	RTS Civil Consulting Engineers	14.6.2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	A481593	Delisle Hunt Wood Pty Ltd	10.2.2023
Report on Geotechnical Site Investigation	2019-219.1	Crozier Geotechnical Consultants	13.2.2023
Stormwater Management Requirements	220502	RTS Consulting	15.6.2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

4. 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.

5. 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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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.

6. Pool Wet Edge

A "wet edge" is not to be included for the pool design with the construction or completion works.

Reason: To minimise noise impact on adjacent dwelling amenity.

FEES / CHARGES / CONTRIBUTIONS

7. Security Bond

A bond (determined from cost of works) of \$5,000 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. On-Site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by *RTS Civil Consulting Engineers*, job number 220502, drawing number SW100, SW101, SW102, SW103, SW200, SW201, SW203, dated 14/6/2022.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

9. 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.

10. **Stormwater Treatment Measures – Minor**

The applicant must install a sediment control pit that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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. **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.

12. **Privacy Screen**

A 1.65 metre privacy screen (measured from finished floor level) of the spa outbuilding is to be erected projecting for a distance 1.5m along / in line with, the eastern edge of the pool. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy amenity to the adjoining / nearby property.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Project Arborist**

a) A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites.

b) The Project Arborist shall be in attendance and supervise all work within the Tree Protection Zone of 1 x Araucaria heterophylla located in the rear yard.

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.

d) The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the 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.

Note: 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.

14. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties: 2 Wyadra Street, Freshwater.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

DURING BUILDING WORK

15. **Protection of Rock and Sites of Significance**

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.
- c) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

16. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an the Project 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 the Project 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 the Project 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, the Project 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/Project 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 AS4970-2009 Protection of trees on development sites,

- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause 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 Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by the Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

17. **Condition of Trees**

a) 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.

b) 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.

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

d) 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.

18. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a

native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

19. 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.

20. 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) 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.

21. 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.

22. Site Boundary Levels

Continuity with existing ground levels within 1.0m of the rear boundary within the site are to be generally maintained minimal backfill or modification that may create cross boundary impacts with drainage, soil retention and the like along the fence line setback area.

Reason: To minimise ground level modification issues between adjacent properties

23. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

24. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s),
- c) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- d) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone,

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

25. Condition of Retained Vegetation

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 on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree and vegetation protection.

26. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) 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.

27. Priority Weed Removal and Management

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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 weeds.

28. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (*NSW Land Registry* standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the *NSW Land Registry Services*. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of Title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

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

29. Maintenance of Stormwater Treatment Measures - Minor

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

30. 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



Alex Keller, Principal Planner

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



Rodney Piggott, Manager Development Assessments