

23 July 2025



Robert Brown  
Level 1 63 William Street  
DARLINGHURST NSW 2010

Dear Sir/Madam

**Application Number:** Mod2025/0226  
**Address:** Lot 22 DP 602041 , 90 Cabbage Tree Road, BAYVIEW NSW 2104  
**Proposed Development:** Modification of Development Consent DA2021/2442 granted for construction of a swimming pool, spa and pavilion

Please find attached the Notice of Determination for the above mentioned Application.

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Maxwell Duncan  
**Principal Planner**

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application Number:</b>	Mod2025/0226 PAN-529440
<b>Applicant:</b>	Robert Brown Level 1 63 William Street DARLINGHURST NSW 2010
<b>Property:</b>	Lot 22 DP 602041 90 Cabbage Tree Road BAYVIEW NSW 2104
<b>Description of Development:</b>	Modification of Development Consent DA2021/2442 granted for construction of a swimming pool, spa and pavilion
<b>Determination:</b>	Approved Consent Authority: Northern Beaches Council
<b>Date of Determination:</b>	23/07/2025
<b>Date from which the consent operates:</b>	23/07/2025

Under Section 4.55 (2) Environmental Impact of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

### Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

### Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

## Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

## Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

## Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

## Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

**Signed** On behalf of the Consent Authority



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Name Maxwell Duncan, Principal Planner

Date 23/07/2025

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-529440 MOD2025/0226	The date of this notice of determination	Modification of Development Consent DA2021/2442 granted for construction of a swimming pool, spa and pavilion  Add Condition No.1B - Modification of Consent - Approved Plans and supporting documentation Modify Condition 8 - Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans Add Condition 33A - Installation of solid/fuel burning heaters Add Condition 33B - Certification of solid fuel burning heaters Add Condition 38A - Operation of solid fuel burning heaters Add Condition 38B - Maintenance of solid fuel heaters
PAN-463590 Mod2024/0458	30/09/2024	Modification of Development Consent DA2021/2442 granted for Construction of a swimming pool, spa and pavilion  Add Condition No.1A - Modification of Consent 2 - Approved Plans and supporting documentation Modify Condition No.8 - Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans Add Condition No.12A - Water Quality Management Add Condition No.20A - Installation and Maintenance of Sediment and Erosion Controls Add Condition No.39 - Maintenance of Stormwater Treatment Measures Delete Condition No.13 - Tree Removal Within the Property Delete Condition No.30 - Installation of solid/fuel burning heaters Delete Condition No.31 - Certification of solid fuel burning heaters Delete Condition No.36 - Maintenance of solid fuel heaters Delete Condition No.37 - Operation of solid fuel burning heaters

### Modified conditions

#### **A. Add Condition No.1B - Modification of Consent 2 - Approved Plans and supporting documentation, to read as follows:**

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.

<b>Approved Plans</b>
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Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
01.2	05	Overall site plan	Casey Brown Architecture	22 April 2025
01.3	05	Proposed pool and cabana ground plan	Casey Brown Architecture	22 April 2025
01.4	05	Proposed pool and cabana setout plan	Casey Brown Architecture	22 April 2025
01.5	05	Proposed roof plan	Casey Brown Architecture	22 April 2025
01.6	05	Proposed pool elevations	Casey Brown Architecture	22 April 2025
01.7	05	Proposed pool section	Casey Brown Architecture	22 April 2025
01.8	05	Plant room plan	Casey Brown Architecture	22 April 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. A1804567	0	-	17 July 2025
Arboricultural Impact Assessment	-	Growing my way	March 2025

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.

**B. Modify Condition 8 - Geotechnical Report Recommendations to read as follows:**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by MM Geomechanics dated 18 May 2025 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**C. Add Condition 33A - Installation of solid/fuel burning heaters to read as follows:**

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

**D. Add Condition 33B - Certification of solid fuel burning heaters to read as follows:**

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

**C. Add Condition 38A - Operation of solid fuel burning heaters to read as follows:**

The owner/operator must take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures must include:

- Using dry seasoned hardwood
- Storing wood in a dry well-ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke
- Maintenance according to the manufacturer's specifications

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

**D. Add Condition 38B - Maintenance of solid fuel heaters to read as follows:**

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

## **Important Information**

This letter should therefore be read in conjunction with DA2021/2442 dated 8 April 2022 and Mod2024/0458 dated 30 September 2024.

## **Dictionary**

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Northern Beaches Council.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Northern Beaches Local Planning Panel.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A

Regulation.

**Sydney district or regional planning panel** means Sydney North Planning Panel.