

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0033
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot B DP 396785, 201 Whale Beach Road WHALE BEACH NSW 2107
Proposed Development:	Modification of Development Consent DA2022/0714 granted for Construction of a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nina Simone Beale
Applicant:	Nina Simone Beale

Application Lodged:	05/02/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	14/02/2024 to 28/02/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify the Development application under DA2022/0714, approved for alterations additions to a dwelling house including for the Construction of a Swimming pool.

In detail, the modification seeks to :

- Lower the swimming pool, from the existing lower deck (RL37.41), closer to exiting ground level (RL32.99)
- Excavation
- New pier footings
- Alteration to the shape of the pool
- New hedge to eastern boundary

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot B DP 396785 , 201 Whale Beach Road WHALE BEACH NSW 2107
Detailed Site Description:	The subject site consists of an allotment located on the northern side of Whale Beach Road. The site is irregular in shape with a frontage of 30.34m along Whale Beach Road and a depth of 31.9m. The site has a surveyed area of 632.9m². The site is located within the C4 Environmental Living zone and accommodates a dwelling house on site. The site has a slope from the front of the property to the rear. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by residential development.

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:

- N276/11 - Alterations and additions approved on 22/11/11
- DA2022/0714 - Construction of a Swimming pool approved on 12 August 2022. This is the consent that is the subject of this modification.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2022/0714, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/0714 for the following reasons: The proposal maintains a similar size swimming pool to the rear of the property, and involves a re-positioning of the pool. The pool remains consistent with built form controls and involves a slight increase to Landscaped area. As the proposed maintains the use of a swimming pool that responds well to built form controls, and makes minor changes to the shape size and location of the pool, the consent as modified would be substantially the same as the development for which the consent was originally granted.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2022/0714 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.

Section 4.55 (2) - Other Modifications	Comments
the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – 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 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: 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

Section 4.15 'Matters for Consideration'	Comments
	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 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 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 application has been publicly exhibited from 14/02/2024 to 28/02/2024 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The Modification includes amended Landscape Plans prepared by Wyer & Co. The amended Landscape Plans include planting of 1 x <i>Banksia integrifolia</i> and 38 x <i>Waterhousia floribunda</i> with removal of one small tree in addition to those previously approved for removal. The plans also include planting of numerous native and indigenous shrubs and groundcovers across the rear of the site. The amended design requires removal of vegetation from the rear of the site with replacement planting as described above. No objections are raised with regard to landscape issues, however, I would defer to the comments of Council's Bushland and Biodiversity section regarding biodiversity impacts of the proposal. If the proposal is to be approved, conditions will be required to be amended to update the reference to the previously approved landscape plans (prepared by Jamie King). Specific conditions would need to be amended as follows: 11. Tree and Vegetation Protection a) Existing trees and vegetation shall be retained and protected, including: i) all trees and vegetation within the site not indicated for removal on the approved plans. 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. 15. Landscape Completion Landscape works is to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions: i) all tree planting shall be a minimum pre-ordered planting size of 75 25 litres, and shall meet the requirements of Natspec - Specifying Trees, ii) tree planting shown along the western boundary shall be managed to achieve a height no higher than 3 metres above the pool terrace and deck level 37.41 (ie. no higher than RL40.41), iv) 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

Internal Referral Body	Comments
	views from neighbouring and nearby dwellings and from public spaces. Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent. Reason: Environmental amenity. 17. Certification of Landscape Plan Landscaping is to be implemented in accordance with the approved Landscape Plans (Jamie King 2022 Wyer & Co.) and these conditions of consent. Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate. Reason: To ensure compliance with the requirement to retain and protect significant planting on the site
NECC (Bushland and Biodiversity)	The comments in this referral relate to the following applicable controls and provisions: • Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.6 Wildlife Corridors The proposed modifications include the removal of an additional unidentified tree. A desktop survey has revealed a number of prescribed trees on site and it has to be assumed that the tree proposed for removal is a native which will have to be replaced. The submitted landscape plan includes a number of trees including 1 <i>Banksia integrifolia</i> and 38 <i>Waterhousea floribunda</i> as well as a range of native bushes and groundcovers. Amendments will be required to the landscape plan to ensure compliance with PDCP B4.6: "Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in <i>Native Plants for Your Garden</i> available on the Pittwater Council website). Landscaping is to be outside areas of existing bushland and not include environmental weeds." <i>Waterhousea floribunda</i> is considered a native however it is not locally native and similar locally native species can be used for the purpose of establishing a native screen (i.e <i>Acmena smithii</i> - Common lilly pilly).

Internal Referral Body	Comments
	The development is designed, sited and will be managed to avoid any significant adverse environmental impact.

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 (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

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	Pool - 7m	Pool - 2.1m	Yes

Compliance Assessment

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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Rear building line	6.5m	13.6m (to the rear point where side boundaries meet)	10m (to the rear point where side boundaries meet)	Yes
Side building line	2.5m	1.7m-2.6m	2.5m	Yes
	1m	1.5m	1m	Yes
Building envelope	3.5m	Within	Within	Yes
	3.5m	Within	Within	Yes
Landscaped area	60%	49%	50% / increase on approved	No (but improvement on approved)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.11 Fences - General	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

A condition remains on the consent to require suitable landscaping at each side boundary. Along with the compliant setbacks, this provides a situation in which suitable measures are provided to maintain visual privacy.

D12.6 Side and rear building line

Description of non-compliance

The numerical control for landscaped area is 60% of the site.

The proposal provides for a total landscaped area of 315sqm or 50%, a 5sqm increase. The proposal remains acceptable for the reasons outlined in the original assessment report which follow in the merit assessment below.

Merit Assessment

The following merit assessment is made by addressing the overarching outcomes of the clause:

Achieve the desired future character of the Locality.

The proposal maintains landscaping at the front of the site, has a relatively large landscaped road reserve, and provides for landscaped area to the side and rear of the proposed pool area. Along with the sufficient separation of the proposed structure from neighbours.

The bulk and scale of the built form is minimised.

The proposed height of the development complies with development standard, and integration of landscaped features at the rear ensures no unreasonable impact on amenity or on the visual presentation of the built form.

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

There will be no unreasonable impact to the level of amenity and solar access enjoyed by adjoining dwellings. The proposal will also provide for suitable amenity and solar access within the development site for occupants of the dwelling.

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

Vegetation will be appropriately maintained and enhanced across the site to help visually reduce the built form.

Conservation of natural vegetation and biodiversity.

Natural vegetation and biodiversity will be retained and managed through the maintenance of existing vegetation (subject to conditions).

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

The proposal involves sufficient areas of landscaped area to surround hard space areas. Further to this, a condition is imposed to ensure appropriate control of stormwater.

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

The proposal maintains vegetation and provides climber plants for the proposed structure.. This ensures that landscaping is appropriately integrated with the built form to preserve the character of the area.

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

Sufficient soft surface will be provided to surround hard spaces areas . This allows for the infiltration of water to the water table, and for minimisation of run-off to assist with general stormwater management.

In light of the above, the proposal is considered reasonable with regard to landscaped area.

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

Section 7.12 contributions were levied on the Development 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;
- 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 approval to Modification Application No. Mod2024/0033 for Modification of Development Consent DA2022/0714 granted for Construction of a swimming pool on land at Lot B DP 396785,201 Whale Beach Road, WHALE BEACH, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-408146 - MOD2024/0033	The date of this notice of determination	Development application under DA2022/0714, approved for alterations additions to a dwelling house including for the Construction of a Swimming pool Add condition 10A Modify Condition 11 Modify Condition 15 Modify Condition 17

Modified conditions

A. Add Condition No.1A - Modification of Consent - 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.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
S4.55_100	02	Landscape Site Plan	Wyer and Co	15.12.2023
S.4.55_101	02	Landscape Plan - Rear	Wyer and Co	15.12.2023
S4.55_200	02	Elevation AA	Wyer and Co	15.12.2023
S4.55_201	02	Elevation BB	Wyer and Co	15.12.2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document

Geotechnical Investigation	-	White geotechnical group	14 December 2023
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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. Add Condition 10A Amendment of Landscape Plan to read as follows:

The submitted Landscape Plan is to be amended in accordance with the following:

Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website).
Landscaping is to be outside areas of existing bushland and not include environmental weeds.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

C. Modify Condition 11 Tree and Vegetation Protection to read as follows:

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

- i) all trees and vegetation within the site not indicated for removal on the approved plans.
- 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, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- 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 Certifying Authority,

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 Certifying Authority 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.

Note: All street trees within the road verge and trees within private property 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.

Reason: Tree and vegetation protection.

D. Modify Condition 15 Landscape Completion to read as follows:

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

- i) all tree planting shall be a minimum pre-ordered planting size of 25 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) tree planting shown along the western boundary shall be managed to achieve a height no higher than 3 metres above the deck level 37.41 (ie. no higher than RL40.41),
- iv) 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.

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

Reason: Environmental amenity.

E. Modify Condition 17 Certification of Landscape Plan to read as follows:

Landscaping is to be implemented in accordance with the approved Landscape Plans (Wyer & Co.) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

site.

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

Signed



Thomas Prosser, Principal Planner

The application is determined on 01/03/2024, under the delegated authority of:



Daniel Milliken, Manager Development Assessments