

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0689
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 102 DP 873950, 9 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Proposed Development:	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:	Richard Grant Brock Genevieve Margaret Brock
Applicant:	Genevieve Margaret Brock

Application Lodged:	01/07/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/10/2019 to 04/11/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 432,781.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks the approval for the alterations and additions to an existing dwelling house. Amended plans were received for the application. Therefore, the proposed works below are reflective of the amended design plans, dated 4 September, 2019.

The proposed works consist of the following:

Ground Floor

- Conversion of existing garage to a media room and laundry

- Addition of sunroom, and mud room (within existing covered balcony area)
- Reconfiguration of existing internal areas
- Covered alfresco area opening onto pool

First Floor

- New bedroom with front balcony
- New Bedroom (2)
- New sitting room
- New en-suite and walk in robe to the master bedroom
- A new roof

External

- New in-ground pool
- Additional Landscaping
- Retaining wall
- Removal of existing paved area

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 Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 102 DP 873950 , 9 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Detailed Site Description:	<p>The property is legally identified as Lot 102 within Deposited Plan 873950, and is known as 9 Serpentine Crescent Avenue, North Balgowlah. The property is located within the R2 Low Density Residential zone within the Warringah Local Environment Plan 2011.</p> <p>The property is located on the southern side of Serpentine Crescent Avenue with vehicle entry from Serpentine Crescent.</p> <p>The property is an irregular shaped with an area of 354.2sqm. The front boundary to Serpentine Crescent measures 17.48m, with an eastern side boundary of 18.96m, a western side boundary of 19.105m and a southern rear boundary of 19.9m. The property has a fall from the street frontage to the rear of the site of over 4m.</p> <p>The site is currently occupied by a two storey dwelling house, garage and carport within a landscaped settings.</p> <p>Surrounding sites consist of one and two storey dwelling houses, of varying ages, within landscaped settings.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant development applications for this site.

The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact</p> <p>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.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mr Jamie Ross Cassidy	11 Serpentine Crescent NORTH BALGOWLAH NSW 2093

A submission was received from No. 11 Serpentine Crescent Balgowlah in regards in response to the initial proposal. However, the applicant submitted amended plans to address specific planning concerns in regards to the application. As a result there where no submissions received in regards to the amended plans.

However, the concerns raised in the initial proposal submission have been addressed below:

- Overshadowing
- Privacy
- Noise

The matters raised within the submissions are addressed as follows:

- **Concern was raised in regards to the additional overshadowing to neighbouring site No. 11 Serpentine Crescent, North Balgowlah.**

Comment:

The certified shadow diagrams submitted to Council clearly demonstrate that the proposal complies with the provisions of, D6 - Access to Sunlight, of the Warringah Development Control Plan 2011. The overshadowing issues and impacts are relatively minor in nature and are assessed on their merits within the Part C1.4 - Solar Access section of this report.

It is considered that the concerns raised do not warrant refusal or further amendment of the proposal.

- **Concern was raised in regards the privacy impacts the new terrace area will have on neighbouring site No. 11 Serpentine Crescent, North Balgowlah.**

Comment:

Concern was raised regarding potential overlooking of the terrace area to the eastern adjoining property. The proposed terrace is located within the existing footprint of the dwelling house, with no change to the existing rear setback of the dwelling house.

The amended design has incorporated sufficient measures, such as additional landscaping along the rear of the subject site, and a curved access stair design to ensure there is no direct the site line to the eastern adjoining site. These measures will prevent any unreasonable and detrimental overlooking of the adjoining site.

The potential amenity impacts from the subject balcony is not considered to be any greater than that of a regular dwelling house in the R2 zone and thereby does not warrant the refusal of the application.

- **Concern was raised in regards to potential noise that can be created from the swimming pool filtration system.**

Comment:

The proposed swimming pool pump is to be located under the south eastern corner of the dwelling house. The pool pump will be conditioned to be located within a sound proof enclosure to ensure there are no additional noise impacts.

It is considered that the concerns raised do not warrant refusal or further amendment of the proposal.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No objections are raised to the proposed development, subject to conditions.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been

External Referral Body	Comments
	received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1021683S dated 10 June, 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. No. 1021683S dated 10 June, 2019).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	7.6m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.8m Dwelling House 1.2m Retaining wall	- -	Yes Yes
B3 Side Boundary Envelope	4m East	No encroachment	-	Yes
	4m West	No encroachment	-	Yes

B5 Side Boundary Setbacks	0.9m East	1.1m- 1.2m Swimming Pool 4.0m Ground Dwelling House 4.0m First Dwelling House	- - -	Yes Yes Yes
	0.9m West	1.2m - 2.3m Ground Dwelling 1.1m - 2.3m First Dwelling House	- -	Yes Yes
B7 Front Boundary Setbacks	6.5m	4.9m - 5.9m Ground Dwelling House 5.9m - 6.5m First Floor	up to 24.6% up to 9.20%	No No
B9 Rear Boundary Setbacks	6m	3.4m Swimming Pool Coping 3.86m Swimming Pool 2.8m First floor	up to 47.7% 40.7% 53%	No No No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	44.72% (158.43sqm)	-	Yes

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	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	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
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The proposed ground floor addition demonstrates a 4.9m - 5.0m front boundary setback to Serpentine Crescent, representing a 24.6% variation to the control.

The proposed first floor addition demonstrates a 5.9m - 6.5m front boundary setback to Serpentine Crescent, representing a 9.2% variation to the control.

It is important to note that the topography of the site leads to the proposed front variation to be located below the Serpentine Crescent street level view.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The building elements within the front setback are minor in nature and are located substantially below street level.

The proposal provides a generous landscape open space provision of 44.7%, with landscaping within the front setback to screen the proposed variation.

Overall, the non-complying elements have no significant impact on the sense of openness created along the site frontage.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The ground floor variation is located below the street level and is screened by the front fencing and landscaped area when viewed from the street.

The proposed variations are minor in nature and the front setback is consistent with the front setback of the eastern neighbouring site of No.9a Serpentine Crescent, which displays a 4m front boundary setback to the dwelling house.

Therefore, the variation in the front setback is consistent with maintaining the visual continuity and pattern of buildings in the street.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The encroaching element is a minor extension of the ground floor, consistent with the front setback of the eastern adjoining site and located below the street level view with landscape spaces adjacent.

In this regard, the proposed variation will not have an adverse impact on the visual quality of the Serpentine Crescent streetscape and public spaces.

- *To achieve reasonable view sharing.*

Comment:

The site is located within a built up residential area and does not benefit from any significant views due the density of surrounding development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

B9 Rear Boundary Setbacks

Description of non-compliance

The property is small in size at 358sqm, and the existing dwelling house presents an existing rear setback of 2.8m to 3.355m to the southern boundary. Therefore, full compliance is difficult to be achieved.

The proposal includes a swimming pool that will be located 3.355m from the rear (southern) boundary. This represents a 47.7% variation with the 6m standard.

The proposal also includes a new rear terrace area within the existing footprint of the dwelling house. This rear terrace area is located 3.55m from the rear boundary.

The first floor additions are located 2.8m from the rear boundary setback. This represents a 53% variation with the setback control.

In effect, there is no change to the existing rear setbacks of the property. However, an merit assessment for the additional variations and the swimming pool has been undertaken below.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The proposal complies with the landscape open space (LOS) provision at 44.72,% (158.43sqm). Therefore, the proposal retains reasonable opportunities for deep soil and landscaped areas.

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

Comment:

The proposed swimming pool is located adjoining the side boundary of the dwelling house, and the terrace area is within the existing footprint of the dwelling house. Therefore, the site will retain the existing open space area in the rear yard.

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

Comment:

The swimming pool is sited at ground level, with additional landscaping along the rear of the site to provide additional privacy measures.

The first floor rear addition has four windows proposed for the southern elevation. However two (2) of these windows (adjoining bathrooms) are treated with obscure glazing to minimise any potential privacy impacts. The two windows that adjoining bedrooms are not considered to create any additional privacy impacts. Therefore, privacy treatments are not required.

The rear terrace area has been designed with the existing rear setback demonstrated by the dwelling house. The access stairs do not direct the line of site directly to the southern rear adjoining site, rather they are curved to the west to minimise overlooking. Additional landscaping and the exiting rear boundary fence will provide reasonable mitigation measure to limit the privacy impacts to adjoining sites.

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

Comment:

The subject site is a constrained by its size, and the existing siting of the dwelling house. The terrace area is located within the existing footprint of the dwelling house, and the siting of the

pool will not unreasonably impact upon the pattern of buildings or upon existing landscaped open space.

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

Comment:

The swimming pool is located at ground level within the eastern side boundary setback area of the dwelling house to maintain the existing levels of privacy between the subject site and surrounding properties.

The first floor windows have been treated with privacy measures to ensure the overlooking to the rear adjoining property is not unreasonable.

The terrace, while elevated, will be screened by the proposed landscaping and boundary fencing. Therefore, adequate levels of privacy are maintained between the rear of the dwelling and the adjoining sites.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

C3 Parking Facilities

The subject site had an existing garage that is not compliant with the Australian Standards for Off-street car-parking in that it is less than 3m in width and could not be utilised to for car-parking.

Therefore, as the previous garage was not utilised for car-parking there is no changes to the current tandem car-parking arrangement onsite.

D6 Access to Sunlight

The development application includes shadow diagrams which are certified by the architect (see Plan No. D16 - 18 dated 4 September 2019 as prepared by Donna Barnes Design). The diagrams indicate that the development will cast shadow over the neighbouring property to the east (No. 11 Serpentine Crescent) between 9.00am and 12.30pm on 21 June.

However, it should be noted here that overshadowing is controlled by Clause D6 in the WDCP 2011 which requires that at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of three hours of sunlight between 9.00am and 3.00pm on June 21. In this regard, the diagrams indicate that the development complies with the requirements of this particular control. Given the findings in those clauses, the development satisfies this objective.

D8 Privacy

Having regard to this localised situation, the assessment of privacy is based on the principle of not creating additional unreasonable impacts on the existing level of privacy between neighbours.

The additional terrace area will be located within the existing footprint of the dwelling house, and maintains the existing rear and side setbacks. Whilst the proposed terrace is elevated above the ground

level (due to the slope of the site and siting of the existing dwelling house), the proposal includes additional landscaping along the rear boundary for screening purposes, and a curved access stair design to ensure there is no direct line of sight to the southern adjoining property. Therefore, it is not considered that additional privacy treatments are required.

The additional ground floor windows will continue to be screened by existing vegetation. There are four (4) windows proposed for the first floor of the southern elevation. Windows WF11 and WF10 will be obscured glazing and will adjoin bathrooms. Window WF9 and WF8 adjoin bedrooms. Overlooking from a bedroom is less objectionable as occupants tend to spend less waking time in these rooms. As the above windows are directly associated to bedrooms, it is not considered that privacy treatments are required.

The additional windows on the eastern and western elevations have used a variety of windows, including high-sill, and opaque glazing to ensure there is no additional privacy impacts to the eastern and western adjoining properties.

The proposed swimming pool is at ground level, therefore there are no privacy impacts from the incorporation of the swimming pool.

Therefore, the application proposes mitigation measures that do not unreasonably alter the previous levels of overlooking and privacy between the neighbouring sites, and the proposal satisfies the requirements of the D8 Privacy clause.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$4,328 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$432,781.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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 DA2019/0689 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 102 DP 873950, 9 Serpentine Crescent, NORTH BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan DA02	04/09/2019	Donna Barnes Designs
Proposed Ground Floor Plan DA05	04/09/2019	Donna Barnes Designs
Proposed First Floor Plan DA06	04/09/2019	Donna Barnes Designs
Proposed North Elevation DA07	04/09/2019	Donna Barnes Designs
Proposed East Elevation DA08	04/09/2019	Donna Barnes Designs
Proposed South Elevation DA09	04/09/2019	Donna Barnes Designs
Proposed West Elevation DA10	04/09/2019	Donna Barnes Designs
Long Section DA11	04/09/2019	Donna Barnes Designs
Cross Section DA12	04/09/2019	Donna Barnes Designs
Pool Cross Section DA13	04/09/2019	Donna Barnes Designs

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

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

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

2. Prescribed Conditions

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

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

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

footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths,

roadways, parks or grass verges without Council Approval.

- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (j) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,327.81 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$432,781.00.

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

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

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

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

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

5. **Security Bond**

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

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

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

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

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

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

6. On-site Stormwater Detention Compliance

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention and disposal system in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Taylor Consulting, drawing number Sheet-1, dated 31/05/2019. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

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

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

7. Carport Gradients

Carport gradients within the private property are not to exceed a gradient of 1 in 20 (5%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to the parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property

8. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

9. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

10. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

11. **Sydney Water "Tap In"**

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

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

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

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

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

12. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

15. Vehicle Crossings

The provision of one vehicle crossing 4.0 metres wide at layback and 5.0 metres wide at boundary in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

16. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

17. Stormwater Disposal

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

18. Positive Covenant and Restriction as to User for On-site Stormwater Detention

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 including a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), including a 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 detention/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 as to user for on-site storm water detention/disposal is to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

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

19. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

20. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

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

21. **Acoustic Enclosure for Pool Pump**

The swimming pool pump is to be provided in a sound proof enclosure.

Reason: To protect the acoustic amenity of surrounding properties.

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

Signed



Catriona Shirley, Planner

The application is determined on 15/10/2019, under the delegated authority of:



Steven Findlay, Manager Development Assessments