

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0039
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Responsible Officer:	Georgia Quinn
Land to be developed (Address):	Lot 339 DP 12316, 17 Kimo Street NORTH BALGOWLAH NSW 2093
Proposed Development:	Alterations and additions to a dwelling house
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:	Christopher Patrick Raper Emily Mary Jane Newman
Applicant:	Christopher Patrick Raper Emily Mary Jane Newman

Application Lodged:	20/01/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	07/02/2020 to 21/02/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	4.3 Height of buildings: 8.3%
Recommendation:	Approval

Estimated Cost of Works:	\$ 288,164.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to an existing dwelling house.

In particular, the application includes:

- a first floor addition;
- internal re-configuration of the ground floor;
- a double carport;
- a swimming pool; and
- decking.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 339 DP 12316 , 17 Kimo Street NORTH BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Kimo Street.</p> <p>The site is regular in shape with a frontage of 13.6m along Kimo Street and a depth of 48.8m. The site has a surveyed area of 668.9m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a one and two storey dwelling house.</p> <p>The site has a cross fall from west to east (ie. front to rear) of approximately 12m.</p>

The site contains dense canopy within the northern side and rear portion and has significant rock outcrops within the southern portion of the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential development within landscaped settings.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Development Application

This application for alterations and additions to a dwelling house including a swimming pool was lodged with Council on 3 September 2019.

Following a preliminary assessment of the application, Council wrote to the applicant outlining a number of issues that would not allow Council to support the application in its current form. The issues included unreasonable amenity impacts upon adjoining and surrounding properties and a side building envelope non-compliance.

The applicant subsequently provided amended plans to address the aforementioned matters. The application was granted consent under delegation on 8 February 2019.

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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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 clause is not relevant to this application.</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 clause is not relevant to this application.</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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development</p>

Section 4.15 Matters for Consideration'	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning Services, dated 20 January 2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

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 3 submission/s from:

Name:	Address:
Paul Bernard Kaplan	2 / 13 - 15 Ethel Avenue BROOKVALE NSW 2100

Name:	Address:
Mrs Sandra Mae Kaplan Mrs Tracy Davey	
Mr Martin Alexander Myers	44 A Condoover Street NORTH BALGOWLAH NSW 2093
Mr Charles Rose	50 Condoover Street NORTH BALGOWLAH NSW 2093

The following issues were raised in the submissions and each have been addressed below:

- **Privacy;**
- **Overshadowing and alleged inaccurate shadow diagrams;**
- **Vegetation clearing;**
- **Lowering of property value;**
- **Height breach;**
- **Stormwater runoff;**
- **Location of pool pump & air conditioning units; and**
- **Side boundary envelope breach.**

The matters raised within the submissions are addressed as follows:

Privacy

Concern is raised from the property owners of Nos. 48 and 44a Condoover Street in regards to the potential loss of privacy that is said to arise as a result of the proposed first floor addition.

Comment:

This matter has been addressed elsewhere within this report (refer to Clause D8 Privacy under WDCP).

In summary, the proposal is considered to maintain reasonable privacy for the dwelling occupants and those of adjoining and surrounding properties, by way of recessed design, existing and additional landscape treatment and the imposition of conditions of consent which require mechanisms including privacy screening and high sill heights be implemented.

Therefore, this matter as conditioned, does not warrant the refusal of the application.

Overshadowing and alleged inaccurate shadow diagrams

Concern is raised that the development will result in significant overshadowing to the property at No. 44a Condoover Street, and that the provided shadow diagrams are an untrue representation of the shadows to be cast given the elevational difference between No. 44a and the subject site.

Comment:

The application is supported with certified shadow diagrams (drawing numbers 9279 DA1, titled Site Analysis and Shadow Diagrams dated 16/01/20) as required by Council's lodgement requirements. The shadow diagrams demonstrate compliance with the minimum requirements prescribed within Clause D6 Access to Sunlight within WDCP.

This matter therefore does not warrant the refusal of the application.

Vegetation Clearing

Concern is raised that a significant extent of vegetation clearing will result in overlooking of the properties at Nos. 44a and 48 Condoover Street.

Comment:

The application proposes the removal of one (1) mature tree however this is located within the Kimo Street Road Reserve and bears no impact upon the protection of privacy for those properties raising amenity loss as a concern. The dense canopy located within the northern side and rear portion of the subject site is to be retained which will continue to mitigate opportunities of overlooking whilst dually softening and screening the built form.

This matter therefore does not warrant the refusal of the application.

Lowering of property value

Concern is raised the the development will result in loss of privacy and increased shadowing of No. 44a Condoover Street and as a result will subsequently reduce the property value.

Comment:

Property value is not a relevant matter for consideration under the Environmental Planning and Assessment Act 1979.

This matter therefore does not warrant the refusal of the application.

Height breach

Concern is raised that the height of building development standard is a legal requirement and not a guideline, therefore the building should not exceed the prescribed 8.5m limit.

Comment:

This matter has been addressed elsewhere within this report (refer Clause 4.6 under WLEP). In summary, the application is supported with a well-founded Clause 4.6 written request therefore the contravention of the development standard is supported in this instance.

This matter therefore does not warrant the refusal of the application.

Stormwater runoff

Concern is raised in regard to the stormwater runoff that currently impacts the lower level properties at Nos. 50 and 48 Condoover Street.

Comment:

Council's Development Engineer has reviewed the proposal having regard to provisions for stormwater management from a low level property and has raised no objection subject to conditions.

This matter, as conditioned, does not warrant the refusal of the application.

Location of pool pump & air conditioning units

Concern is raised in regard to the acoustic pollution that may arise as a result of the pool pump and air conditioning units, and it is requested such features be located away from the common boundary.

Comment:

As indicated on the provided architectural plans, the swimming pool filter box is located centrally within the subject site away from all property boundaries. Further, a standard condition of consent has been imposed requiring the noise when measured at the nearest property boundary is no greater than 5dBA. The architectural plans do not indicate the placement of any air-conditioning unit.

This matter, as conditioned, does not warrant the refusal of the application.

Side boundary envelope breach

Concern is raised that the proposed development protrudes beyond the prescribed envelope control and as such, presents a built form that is out of character from the surrounding residential development and results in an unreasonably bulky built form that gives rise to amenity loss.

Comment:

This matter has been addressed elsewhere within this report (refer Clause B3 Side Boundary Envelope under WDCP).

In summary, the assessment of this application has found that the development satisfies the underlying objectives of the Control, and that no unreasonable amenity impacts are considered likely to arise as a result of the application.

This matter therefore does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The plans indicate that a healthy street tree is to be removed to accommodate the proposed driveway. Retention of the tree would be preferable, however it is understood that due to engineering requirements, the driveway is required to conform with Councils standards for crossovers over the road reserve.</p> <p>Replacement planting of a mature size is recommended if the proposal is to be approved.</p> <p>Rock outcrops in the rear yard are indicated to be largely retained with works for the pool avoiding the major features. Other existing native trees in the rear yard are also indicated for retention.</p>
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. A standard response has been received within the 21 day statutory period and therefore, included as a condition of consent.

External Referral Body	Comments
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the subject site and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p>

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. A360861_03, dated 20 February 2020).

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	9.21m	8.3% (0.71m)	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m

Proposed:	9.21m
Percentage variation to requirement:	8.3%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

"The development is justified in this instance for the following reasons:

- The works will present a minor variation to the building height control which occurs as a result of the site's sloping topography and the location of existing development. The additions to the dwelling are considered to be compatible with the form and nature of surrounding development;*
- The proposal is consistent with the character of development in the locality;*
- The development will sit comfortably in its context in terms of scale, massing and form and the minor variation to the standard will not be discernible to the casual observer from a streetscape perspective;*
- The proposal will not present any unreasonable additional impacts in terms of view loss for neighbours, privacy or bulk and scale;*
- The proposed development is considered to promote good sustainable design and enhance the residential amenity of the buildings' occupants and the immediate area."*

It is agreed that the sloping topography and location of the existing development partly cause the breach of the height limit. It is also agreed that the development is consistent with the scale and character of surrounding properties, and that the breach of the height limit (located centrally within the site) will not result in any unreasonable impacts to neighbouring properties.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposal seeks a maximum building height of 9.21m for a minor portion of the new works, thereby contravening the numeric control by 8.3%. The minor contravention of the height of buildings development standard will not be discernible when viewed from the streetscape. The height departure is substantially attributable to the existing ground floor level, in conjunction with the sloping topography of the site. The proposed development will however sit comfortably within its context in terms of scale, massing and form and the variation will provide for a well composed, articulated building that provides good amenity for the dwelling occupants whilst respecting the existing identity of the streetscape. The development will appear compatible with the emerging character and development pattern of the locality.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The minor height departure will not contribute to an adverse building bulk and scale, such that the visual impact of the development is minimised. The height variation will not be discernible to the casual observer as viewed from the streetscape, therefore views to and/or from public or private places will not be hindered. The modulated built form and appropriate siting of the works ensure minimal disruption of views and protection of amenity for adjoining and surrounding properties. The application is supported with certified shadow diagrams, which confirm that primary living spaces and private open space areas will continue to receive adequate solar access.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposed development will not adversely impact upon the scenic quality of Warringah's coastal or bush environments, as the first floor addition is sited entirely above the existing building footprint.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The minor height variation will not be discernible to the casual observer from a streetscape perspective. The nearest public parkland is significantly spatially separated and also significantly lower than the subject site therefore the development will remain largely unseen from such.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposal provides for a well-proportioned upper level addition as well as outdoor recreational improvements therefore retaining a low density residential nature. The proposed development respects the predominant height and scale of surrounding dwellings and will meet the housing needs of the community within a single dwelling house which is a permissible use within this low density residential zone.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal is residential in nature and does not propose any other land use.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The development is well contained on-site and sited within a relatively dense landscape setting that is in harmony with the surrounding natural environment of Warringah.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and

(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	2.9m - first floor addition	N/A	Yes
		5 - 7.9m - swimming pool	Up to 9.7%	No
		<i>North</i>		
		2.9m - first floor addition	N/A	Yes
		<i>East</i>		
		2.7m - first floor addition	N/A	Yes
		<i>South</i>		
		2.7m - first floor addition	N/A	Yes
		<i>West</i>		
B3 Side Boundary Envelope	4m <i>North</i>	Encroachment of between 0.8 and 2.9m	Up to 40.6%	No
		in height for a length of 7.8m		
		<i>First floor addition</i>	Up to 3.7%	No
		Encroachment of between nil and 0.2m		
		in height for a length of 2.3m	Up to 23.4%	No
		<i>Vergola</i>		
		Encroachment of between nil and 1.5m		
		in height for a length of		

		5.1m <i>Pool</i>		
	4m <i>South</i>	Encroachment of between nil and 1.2m in height for a length of 5.4m <i>First floor addition</i>	Up to 21.8%	No
B5 Side Boundary Setbacks	0.9m <i>North</i>	nil - 0.3m <i>Carport</i>	100%	No
		1.5m <i>Vergola & deck</i>	N/A	Yes
		2.4m <i>Swimming pool</i>	N/A	Yes
		3.1m <i>First floor addition</i>	N/A	Yes
	0.9m <i>South</i>	1.5 - 2.8m <i>First floor addition</i>	N/A	Yes
		1.6m <i>Deck</i>	N/A	Yes
B7 Front Boundary Setbacks	6.5m	3.6m <i>Carport</i>	44.6% (2.9m)	No
B9 Rear Boundary Setbacks	6m	9.6m <i>Stairs</i>	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (267.6m ²)	41.4% (277m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The proposed first floor addition comprises a wall height of 2.9m, thereby complying with the numeric requirements of this Control.

The swimming pool area, which remains as approved under development application DA2018/1452 comprises a wall along the northern elevation with a height between 5.0 and 7.9m, due to the natural topography of the allotment. The wall itself reaches a maximum height of 6.6m, however the glass pool balustrade that sits atop is 1.2m high, in accordance with Australian Standards. This element of the proposal was approved under a previous application (DA2018/1452) however a merit assessment has been provided 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 minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The swimming pool is sited appropriately within the context of the site, given the natural constraints that exist within it (ie. significant rock outcrops and mature tree species). The swimming pool wall itself extends to a height of 6.6m which readily complies with the numeric requirement, however with the provision of the pool balustrade the 'wall' extends to 7.9m. Notwithstanding the numeric breach, the development is largely obscured and softened as a result of existing landscape treatment that acts as a visual buffer between the development and

adjoining and surrounding properties.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The development will remain below the height of the existing tree canopy level.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The proposal will not hinder the reasonable sharing of views to and/or public or private spaces, as it is centrally sited and of a relatively low elevation compared with the adjoining properties to the south of the site.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The minor breach to the wall height control will not give rise to unreasonable amenity on adjoining or surrounding properties, particularly given the provision of landscape treatment and the significant spatial separation that is to be afforded within this established residential area.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

Minimal site disturbance is required as a result of the swimming pool, such that the existing provision of mature tree species is to be retained, and the rock outcrops dispersed within the site are also to be retained and built around.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

Not applicable, given the wall height breach in this instance relates only to that of the swimming pool.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and 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.

B3 Side Boundary Envelope

Description of non-compliance

The northern elevation of the first floor addition encroaches beyond the prescribed 4m side boundary envelope by between 0.8 and 2.9m in height for a length of 7.8m, which represents a variation of up to 40.6%. The northern elevation of the pool encroaches beyond the envelope by between nil and 1.5m in height for a length of 5.1m, which represents a variation of up to 23.4%. The vergola also encroaches beyond the envelope for a length 2.3m. Figure 1 below demonstrates the aforementioned breaches.

The southern elevation of the first floor addition encroaches beyond the prescribed envelope by between 0.7 and 1.2m in height for a length of 5.4m as well as a secondary breach toward the rear portion of the addition by between nil and 0.2m in height for a length of 2.4m. Figure 2 below demonstrates such breaches.

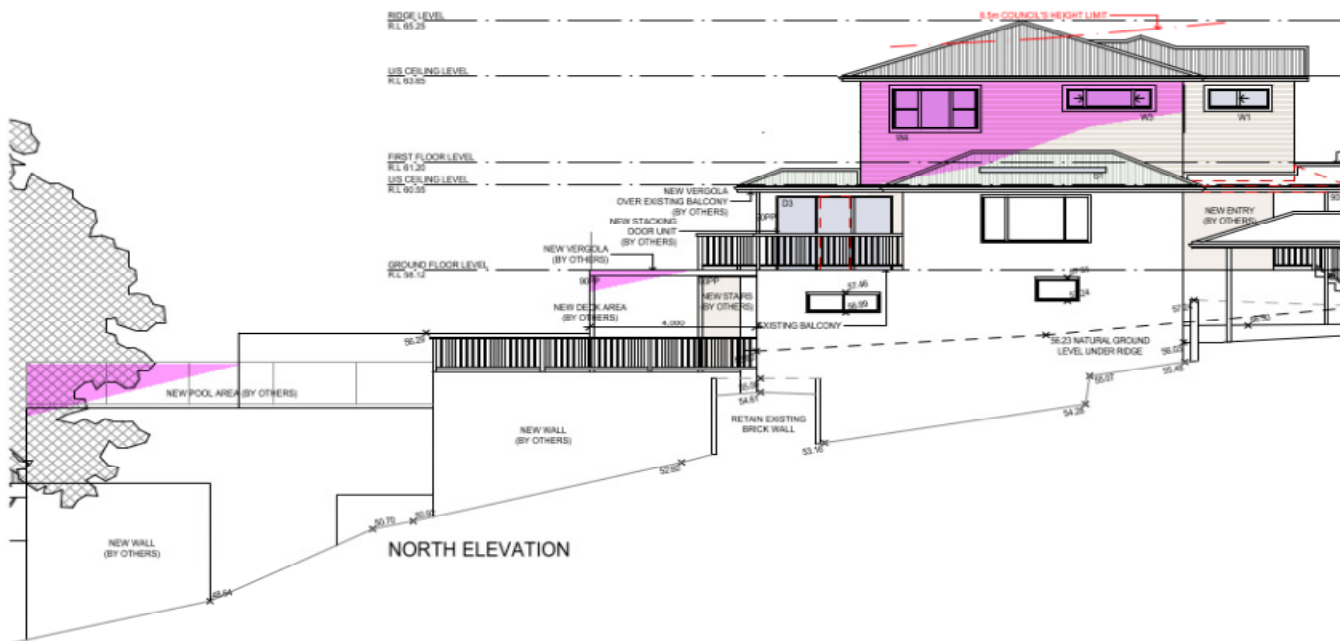


Figure 1. Building envelope non-compliance shown in pink.



Figure 2. Building envelope non-compliance shown in pink.

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 that development does not become visually dominant by virtue of its height and bulk.*

Comment:

Due to the existing built form, in conjunction with the undulating site topography, breaches to the envelope occur along both the northern and southern elevations of the first floor addition. The site drops away from the frontage and the greatest breach occurs toward the rear of the dwelling, therefore the breaches will not be significantly discernible or visually dominant as presented to the streetscape.

The northern elevation of the dwelling presents to those lower properties accessed via Conover Street. Significant spatial separation is afforded between the lower dwelling houses at Nos. 50 and 48 Conover Street (approximately 11.8 and 30.5m respectively) from the recessed first floor addition. Further, significant landscape treatment including mature tree canopy and shrubs is sited between the subject site and the lower properties which furthermore assists in the mitigation of the built form. The proposed addition is well articulated and modulated such that the visual dominance of the built form is broken down as a result, which in turn ensures the development is of a bulk and scale that is reasonable as viewed from the streetscape and adjoining and surrounding properties.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The breaches to the building envelope are considered reasonable in this instance, given the

gradient of the subject site in conjunction with the existing building. The greatest degree of the breach occurs along the northern elevation towards the rear of the building and considering the lower properties are situated to the north and east of the subject site, no unreasonable impact upon solar access will occur. Further, the application is supported with certified shadow diagrams (drawing numbers 9279 DA1 titled Site Analysis and Shadow Diagrams) which denote compliance with the solar access requirements of WDCP.

The matter of privacy has been addressed elsewhere within this report (refer to Clause D8 of WDCP). In summary, the envelope breach is not considered to give rise to unreasonable amenity impacts to adjoining or surrounding properties, given the significant spatial separation afforded between buildings, the offsetting of such buildings and subsequent windows and the provision of existing and additional landscape treatment, which in conjunction are considered capable of protecting privacy.

- *To ensure that development responds to the topography of the site.*

Comment:

The first floor addition is located entirely within the existing building footprint, thereby reducing any requirement for excavation or site disturbance. The proposed design is considerate of the site topography, as the built form appears as if it 'steps' down with the natural slope of the site. The swimming pool has furthermore been sited appropriately, such that it is accessible from the living areas of the dwelling, without the need for significant site disturbance or removal of significant trees or natural rock outcrops.

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.

B7 Front Boundary Setbacks

Description of non-compliance

The Control requires development be setback a minimum of 6.5m from the front boundary.

The proposed development is setback 3.6m from the front boundary, which represents a variation of 44.6% (2.9m).

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 sense of openness of the streetscape will not be hindered as a result of the siting of the carport, as it remains an open-style structure and is modest in terms of height, bulk and scale.

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

Comment:

The siting of the carport will not create a dominant visual contrast within the existing streetscape given it is an open-style structure, and modest in terms of height and scale. Further, the two sites directly opposite the subject allotment contain double enclosed garages within the front setback area. Therefore the proposed front setback is considered to maintain and conform to the existing visual continuity and pattern of buildings and landscape elements of the streetscape.

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

Comment:

The visual quality of the streetscape and public spaces will not be hindered as a result of the proposed development, given the minimised height, bulk and scale of the carport in conjunction with the surrounding mature tree canopy that will furthermore reduce the visual impact of the development.

- *To achieve reasonable view sharing.*

Comment:

The proposed development will not hinder the current views/vistas obtained from nearby private and/or public spaces.

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.

D8 Privacy

The requirements of this Control are listed below, and aim to ensure reasonable visual and acoustic privacy be maintained for the dwelling occupants and those of adjoining and surrounding properties.

1. Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties;
2. Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking;
3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass;
4. The windows of one dwelling are to be located so they do not provide direct or close views (i.e. from less than 9 metres away) into the windows of other dwellings; and
5. Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.

The proposed first floor addition is situated at its closest point, 11.8m from the closet adjoining dwelling (No. 50 Condoover Street). The next closest dwelling, being No. 48 Condoover Street, is located 30.5m away. Such spatial separation is significant considering the established residential nature of the area, and is a fundamental factor in ensuring the maintenance of reasonable privacy.

Further, the proposal requires the removal of only one (1) mature tree however this is located within the Kimo Street Road Reserve and therefore its removal bears no impact upon privacy. The existing provision of dense vegetation particularly within the northern side and rear sections of the site are to be retained which will assist in the mitigation of opportunities for overlooking.

The existing balcony is to be retained and will extend off the new living room. Due to the difference of elevation between the balcony and the lower properties, opportunities for overlooking exist notwithstanding the provision of landscape treatment. In this respect, it would be appropriate for such balcony to be finished with privacy screening along the northern elevation to a height of 1.65m so as to deflect viewing from neighboring private open space areas. In order to deflect viewing from the private open space area of No. 48 Condoover Street, it would be appropriate for such balcony to be finished with planter boxes along the eastern elevation.

The first floor addition comprises windows on the northern elevation which service bedroom 2 and the main bedroom. The windows are oriented toward the rear private open space area of No. 50 Condoover Street and, because they are defined as habitable rooms and subject to regular use, will result in overlooking opportunities (and may add to the perception of being overlooked). In this respect, it is considered appropriate to impose a condition of consent requiring both windows W3 and W4 be high sill (ie. a sill height of 1.7m from the FFL).

In turn, the proposed development is considered to achieve the requirements of the Control.

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 \$2,882 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$288,164.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/0039 for Alterations and additions to a dwelling house on land at Lot 339 DP 12316, 17 Kimo Street, NORTH BALGOWLAH, subject to the conditions printed below:

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
9279 DA1, Issue B - Site Plan	20 February 2020	Add-style Home Additions
9279 DA1, Issue B - Ground Floor Plan	20 February 2020	Add-style Home Additions
9279 DA1, Issue B - First Floor Plan	20 February 2020	Add-style Home Additions
9279 DA1, Issue B - North Elevation	20 February 2020	Add-style Home Additions
9279 DA1, Issue B - South/ East/ West Elevations	20 February 2020	Add-style Home Additions
9279 DA1, Issue B - Section A-A/ Section B-B	20 February 2020	Add-style Home Additions
9279 DA1, Issue B - Swimming Pool Plan/ Section C-C	20 February 2020	Add-style Home Additions

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (Cert. No. A360861_03)	20 February 2020	Add-style Home Additions
Geotechnical Report (Ref: 2017-234.2)	16 January 2020	Crozier Geotechnical Consultants
Bushfire Report	20 January 2020	Bushfire Planning Services

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	1 November 2019	Add-style Home Additions

In the event of any inconsistency between conditions of this consent and the

drawings/documents referred to above, the conditions of this consent will prevail.

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	Undated

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

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

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be

maintained in a safe and clean state until such time as new construction works commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,881.64 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 \$288,164.00.

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.

6. **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

7. **Stormwater Disposal from Low Level Property**

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's "Warringah Water Management Policy PL 850" 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 the development.

8. **Vehicle Driveway and Parking Area Gradients**

Driveway and the proposed parking area gradients within the private property are to comply with AS/NZS 2890.1:2004. The gradients for the parking area are not to exceed 1 in 20 (5%). The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility.

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

Reason: To ensure suitable vehicular access to private property.

9. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- Windows W3 and W4 are to have a sill height of 1.7m from the FFL (RL61.20) of the bedroom;
- Windows W6 and W11 are to be finished in an opaque or translucent glaze;
- The glass balustrade that surrounds the swimming pool is to be finished in an opaque or translucent glaze; and
- The balustrade along the northern and eastern elevations of the new deck on the lower ground level are to be solid in appearance.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

10. **Boundary Identification Survey**

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

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

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

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

11. **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.

12. **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.

13. **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.

14. Privacy Screen

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern edge of the balcony located off the living room as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property. (DACPLC06)

15. Planter Boxes

Planter Boxes that have a minimum width of 500mm are to be placed along the eastern elevation of the ground floor balcony (which extends off the living room).

Reason: To ensure privacy for adjoining and surrounding properties.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

17. Tree removal within the road reserve

i) This consent includes approval to remove the following trees located within the road reserve:

Species	Location
1 x <i>Eucalyptus haemastoma</i>	Kimo St road reserve forward

ii) Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council Tree Services Section prior to removal.

Reason: Public liability

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Road Reserve

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

Reason: Public safety.

19. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

20. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

21. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. 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.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

22. Protection of rock and sites of significance

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

23. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

24. Stormwater Disposal

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

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

25. Required Planting

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location
1 x Street tree	<i>Eucalyptus haemastoma</i> (Scribbly Gum)	Kimo Street road reserve forward c property, clear of driveway sightline generally in align with other street t

ii) all street trees shall be a minimum planting size of 75 litres, and shall meet the requirements

of Natspec - Specifying Trees,

iii) all street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, and mulched to 75mm depth minimum and watered to enable establishment.

iv) details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

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

26. **Swimming Pool Filter**

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

Reason: To ensure that acoustic amenity is maintained for adjoining properties.

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

Signed



Georgia Quinn, Planner

The application is determined on 03/04/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments