

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2015/1234 |
|----------------------------|-------------|

|                                           |                                                                                   |
|-------------------------------------------|-----------------------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Kevin Short                                                                       |
| <b>Land to be developed (Address):</b>    | Lot 64 DP 209118, 2 Bowness Street WHEELER HEIGHTS NSW 2097                       |
| <b>Proposed Development:</b>              | Alterations and Additions to a dwelling house and construction of a swimming pool |
| <b>Zoning:</b>                            | LEP - Land zoned R2 Low Density Residential                                       |
| <b>Development Permissible:</b>           | Yes                                                                               |
| <b>Existing Use Rights:</b>               | No                                                                                |
| <b>Consent Authority:</b>                 | Warringah Council                                                                 |
| <b>Land and Environment Court Action:</b> | No                                                                                |
| <b>Owner:</b>                             | Rodney Carmont<br>Karen Maree Carmont                                             |
| <b>Applicant:</b>                         | Rodney Carmont<br>Karen Maree Carmont                                             |

|                                  |                                                |
|----------------------------------|------------------------------------------------|
| <b>Application lodged:</b>       | 14/12/2015                                     |
| <b>Application Type:</b>         | Local                                          |
| <b>State Reporting Category:</b> | Residential - Alterations and additions        |
| <b>Notified:</b>                 | 06/01/2016 to 27/01/2016                       |
| <b>Advertised:</b>               | Not Advertised, in accordance with A.7 of WDCP |
| <b>Submissions:</b>              | 0                                              |
| <b>Recommendation:</b>           | Approval                                       |

|                                 |            |
|---------------------------------|------------|
| <b>Estimated Cost of Works:</b> | \$ 270,650 |
|---------------------------------|------------|

### 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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 64 DP 209118 , 2 Bowness Street WHEELER HEIGHTS NSW 2097                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Detailed Site Description:</b> | <p>The subject site is irregular in shape, has a surveyed area of 562.8m<sup>2</sup> and is located on the low side of the road with an easterly aspect.</p> <p>A one storey dwelling occupies the mid and front portion of the site. Vehicular access to the site is provided from Bowness Street.</p> <p>Vegetation on site consists of grass lawn areas interspersed by small to medium size canopy trees.</p> <p>The subject site is zoned R2 - Low Density Residential under Warringah Local Environmental Plan 2011 (WLEP 2011) and identified as being Land Slip Risk Map - Area D and Bushfire Prone Land.</p> <p>The site is characterised by a moderate slope (10%) which falls across the site, from south to north. The cross fall is more pronounced at the street frontage.</p> |

Map:



## SITE HISTORY

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

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

## PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for alterations and additions to the existing dwelling house and construction of an inground swimming pool with an associated deck.

Specifically, the following works are proposed;

- Enclosure of the front patio, extension of the house to the west and construct an in ground swimming pool and associated deck within the rear western portion of the site;
- Reconfiguration of internal floor layout;
- Excavation works up to a depth of 1.8m for the pool and adjacent retaining to provide paved area between the dwelling and pool; and
- Gable metal roof form.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 79C 'Matters for Consideration'                                                                                  | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument                                             | See discussion on "Environmental Planning Instruments" in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Section 79C (1) (a)(iii) – Provisions of any development control plan                                                    | Warringah Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Section 79C (1) (a)(iiia) – Provisions of any planning agreement                                                         | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;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&amp;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&amp;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. No additional information was requested.</p> |

| Section 79C 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                   | <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;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&amp;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 79C (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) 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> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the suitability of the site for the development                                                                                                             | The site is considered suitable for the proposed development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs                                                                                             | See discussion on “Public Exhibition” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Section 79C (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.

## 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 Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

| Internal Referral Body | Comments                                                         |
|------------------------|------------------------------------------------------------------|
| Landscape Officer      | No objections to the proposed development subject to conditions. |

| External Referral Body | Comments                                                                                                                                                                                             |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ausgrid: (SEPP Infra.) | 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. |

## 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. A235742 dated 14 December 2015).

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 Environment Plan 2011

|                                                                                        |     |
|----------------------------------------------------------------------------------------|-----|
| Is the development permissible?                                                        | Yes |
| After consideration of the merits of the proposal, is the development consistent with: |     |
| aims of the LEP?                                                                       | Yes |
| zone objectives of the LEP?                                                            | Yes |

Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 5.6m     | N/A         | Yes      |

Compliance Assessment

| Clause                                                               | Compliance with Requirements |
|----------------------------------------------------------------------|------------------------------|
| Part 1 Preliminary                                                   | Yes                          |
| 4.3 Height of buildings                                              | Yes                          |
| 5.9AA Trees or vegetation not prescribed by development control plan | 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        | 3.4m                                                        | N/A          | Yes      |
| B3 Side Boundary Envelope | 4m          | side elevations are contained within the projected envelope | N/A          | Yes      |
|                           |             |                                                             |              |          |

|                                                                              |                               |                                                                                                                       |                      |                                        |
|------------------------------------------------------------------------------|-------------------------------|-----------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------|
| B5 Side Boundary Setbacks                                                    | 0.9m                          | north elevation<br>dwelling: 1.0m<br>pool deck: 0.9m                                                                  | N/A<br>N/A           | Yes<br>Yes                             |
|                                                                              |                               | south elevation<br>dwelling: 0.9m<br>pool deck: 4.0m                                                                  | N/A<br>N/A           | Yes<br>Yes                             |
| B7 Front Boundary Setbacks                                                   | 6.5m                          | 6.5m                                                                                                                  | N/A                  | Yes                                    |
| B9 Rear Boundary Setbacks<br>Exception: < 50% outbuilding in<br>rear setback | 6m<br>50% (35m <sup>2</sup> ) | dwelling: 14.2m<br>pool & deck: 4.6m (16.1% or<br>16.25m <sup>2</sup> located in setback area<br>(70m <sup>2</sup> )) | N/A<br>25%<br>(1.5m) | Yes<br>Yes (supported as<br>exception) |
| D1 Landscaped Open Space<br>(LOS) and Bushland Setting                       | 40%                           | 228.5m <sup>2</sup> (40.6%)                                                                                           | N/A                  | Yes                                    |

#### Compliance Assessment

| Clause                                        | Compliance<br>with<br>Requirements | Consistency<br>Aims/Objectives |
|-----------------------------------------------|------------------------------------|--------------------------------|
| B1 Wall Heights                               | Yes                                | Yes                            |
| B3 Side Boundary Envelope                     | Yes                                | Yes                            |
| B5 Side Boundary Setbacks                     | Yes                                | Yes                            |
| B7 Front Boundary Setbacks                    | Yes                                | Yes                            |
| B9 Rear Boundary Setbacks                     | Yes                                | Yes                            |
| Rear Boundary Exceptions - R2                 | Yes                                | 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                            |
| D10 Building Colours and Materials            | Yes                                | Yes                            |
| D11 Roofs                                     | Yes                                | Yes                            |
| D12 Glare and Reflection                      | Yes                                | Yes                            |
| D14 Site Facilities                           | Yes                                | Yes                            |
|                                               |                                    |                                |

| Clause                                     | Compliance with Requirements | Consistency Aims/Objectives |
|--------------------------------------------|------------------------------|-----------------------------|
| D16 Swimming Pools and Spa Pools           | Yes                          | Yes                         |
| D20 Safety and Security                    | Yes                          | Yes                         |
| D22 Conservation of Energy and Water       | Yes                          | Yes                         |
| E1 Private Property Tree Management        | Yes                          | Yes                         |
| E2 Prescribed Vegetation                   | Yes                          | Yes                         |
| E6 Retaining unique environmental features | Yes                          | Yes                         |
| E10 Landslip Risk                          | Yes                          | Yes                         |

#### **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**

##### **Warringah Section 94A Development Contribution Plan**

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

| Warringah Section 94 Development Contributions Plan          |           |          |
|--------------------------------------------------------------|-----------|----------|
| Contribution based on a total development cost of \$ 270,650 |           |          |
| Contributions                                                | Levy Rate | Payable  |
| Total Section 94A Levy                                       | 0.95%     | \$ 2,571 |
| Section 94A Planning and Administration                      | 0.05%     | \$ 135   |
| Total                                                        | 1%        | \$ 2,707 |

#### **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 DA2015/1234 for Alterations and Additions to a dwelling house and construction of a swimming pool on land at Lot 64 DP 209118, 2 Bowness Street, WHEELER HEIGHTS, 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

| <b>Architectural Plans - Endorsed with Council's stamp</b> |              |                    |
|------------------------------------------------------------|--------------|--------------------|
| <b>Drawing No.</b>                                         | <b>Dated</b> | <b>Prepared By</b> |
| DA 1                                                       | August 2014  | JJ Drafting        |
| DA 2                                                       | August 2014  | JJ Drafting        |
| DA 3                                                       | August 2014  | JJ Drafting        |
| DA 4                                                       | August 2014  | JJ Drafting        |
| DA 5                                                       | August 2014  | JJ Drafting        |
| DA 10                                                      | August 2014  | JJ Drafting        |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                  |                            |
|-----------------------------------------------------------------------------------------|------------------|----------------------------|
| <b>Report No. / Page No. / Section No.</b>                                              | <b>Dated</b>     | <b>Prepared By</b>         |
| Bushfire Risk Assessment                                                                | 14 November 2014 | Bushfire Planning Services |
| PRELIMINARY GEOTECHNICAL ASSESSMENT                                                     | 14 November 2014 | White Geotechnical Group   |

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

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

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. (DACPLB01)

## 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 (DACPLB09)

### 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) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature 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) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) 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.

(l) 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.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009

- (iii) Swimming Pools Regulation 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 sewerred 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.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

| Warringah Section 94 Development Contributions Plan          |           |          |
|--------------------------------------------------------------|-----------|----------|
| Contribution based on a total development cost of \$ 270,650 |           |          |
| Contributions                                                | Levy Rate | Payable  |
| Total Section 94A Levy                                       | 0.95%     | \$ 2,571 |
| Section 94A Planning and Administration                      | 0.05%     | \$ 135   |
| Total                                                        | 1%        | \$ 2,707 |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Warringah's Development Contributions Plan.

## 5. **Security Bond**

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Councils 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.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

Reason: To ensure adequate protection of Councils infrastructure.

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

## 6. **Waste Management Plan**

A waste management plan that addresses Clauses C8 and C9 in the Warringah DCP must be prepared for this development.

Details of the method of transportation and location of the waste/recycling centres are to be included in the plan

Details demonstrating compliance must be provided to the Principal 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.(DACHPC03)

## 7. **Trees to be retained and protected**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Existing trees which must be retained

All trees unless exempt or noxious in Warringah

(b) Tree protection

- i) No tree roots greater than 50mm 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 50mm 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, particularly 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- 2007 Pruning of amenity trees AS4970-2009 Protection of trees on development sites.
- v) All tree protection measures 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. (DACLAC01)

## 8. **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. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

[http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

## 9. **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. Light colours such as off white, cream, silver or light grey colours are 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. (DACPLC03)

**10. Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**11. Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

**12. Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

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

13. **Removal of All Temporary Structures/Material and Construction Rubbish**  
Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

**Signed**

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**Kevin Short, Planner**

The application is determined under the delegated authority of:

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**Steven Findlay, Development Assessment Manager**

**ATTACHMENT A**

| Notification Plan                                                                             | Title              | Date       |
|-----------------------------------------------------------------------------------------------|--------------------|------------|
|  2015/376073 | Plans Notification | 17/12/2015 |

**ATTACHMENT B**

| Notification Document                                                                         | Title            | Date       |
|-----------------------------------------------------------------------------------------------|------------------|------------|
|  2016/003323 | notification map | 06/01/2016 |
|  2016/003357 | notification map | 06/01/2016 |

**ATTACHMENT C**

| <b>Reference Number</b>                                                                         | <b>Document</b>                                                                                 | <b>Date</b> |
|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------|
|  DA2015/1234   | 2 Bowness Street WHEELER HEIGHTS NSW 2097 - Development Application - Alterations and Additions | 14/12/2015  |
|  2015/375987   | Plan Survey Large                                                                               | 17/12/2015  |
|  2015/375965   | to delete no image - Development Application Form                                               | 17/12/2015  |
|  2015/375974   | Applicant Details & Cost Summary Report                                                         | 17/12/2015  |
|  2015/376040   | Certification of shadow diagrams and plans                                                      | 17/12/2015  |
|  2015/376064   | to delete no image - Plans Notification                                                         | 17/12/2015  |
|  2015/376073   | Plans Notification                                                                              | 17/12/2015  |
|  2015/376099   | Plans External Layout                                                                           | 17/12/2015  |
|  2015/376109   | Development Application Form                                                                    | 17/12/2015  |
|  2015/376137   | Plans Master Set                                                                                | 17/12/2015  |
|  2015/381659   | File Cover                                                                                      | 22/12/2015  |
|  2015/381669   | Referral to AUSGRID - SEPP - Infrastructure 2007                                                | 22/12/2015  |
|  2016/003319  | notification letters - 8 sent                                                                   | 06/01/2016  |
|  2016/003323 | notification map                                                                                | 06/01/2016  |
|  2016/003352 | notification letters - 6 sent                                                                   | 06/01/2016  |
|  2016/003357 | notification map                                                                                | 06/01/2016  |
|  2016/030659 | Landscape Referral Response                                                                     | 01/02/2016  |