

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2015/0859 |
|----------------------------|-------------|

|                                           |                                                             |
|-------------------------------------------|-------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Renee Ezzy                                                  |
| <b>Land to be developed (Address):</b>    | Lot 131 DP 12315 , 5 Waimea Street NORTH BALGOWLAH NSW 2093 |
| <b>Proposed Development:</b>              | Demolition works and Construction of a dwelling house       |
| <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>                             | Christopher Paul Clarke<br>Charlotte Sarah Gee              |
| <b>Applicant:</b>                         | Classic Country Cottages                                    |

|                                  |                                               |
|----------------------------------|-----------------------------------------------|
| <b>Application lodged:</b>       | 09/09/2015                                    |
| <b>Application Type:</b>         | Local                                         |
| <b>State Reporting Category:</b> | Residential - Single new detached dwelling    |
| <b>Notified:</b>                 | 15/09/2015 to 30/09/2015                      |
| <b>Advertised:</b>               | Not Advertised in accordance with A.7 of WDCP |
| <b>Submissions:</b>              | 3                                             |
| <b>Recommendation:</b>           | Approval                                      |

|                                 |            |
|---------------------------------|------------|
| <b>Estimated Cost of Works:</b> | \$ 710,400 |
|---------------------------------|------------|

### 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

Warringah Development Control Plan - B3 Side Boundary Envelope  
Warringah Development Control Plan - D8 Privacy  
Warringah Development Control Plan - E10 Landslip Risk

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 131 DP 12315 , 5 Waimea Street NORTH BALGOWLAH NSW 2093                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the southern side of Waimea Street.</p> <p>The site is regular in shape with a frontage of 19.81m along Waimea Street and an average depth of 40.6m. The site has a surveyed area of 804.2m<sup>2</sup>.</p> <p>The site is located within the R2 Low density residential zone and accommodates a single storey fibro cottage with a separate garage and carport.</p> <p>Surrounding development consists of one and two storey dwellings ranging in size and architectural style.</p> <p>The site has a cross fall from the street toward the rear of approximately 2.98m (6.6%), and a fall from west to east of approximately 0.64m (3.2%).</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

The proposed development is for the demolition of the existing fibre cement dwelling and garage on the site and construction of a new two storey dwelling. Specifically, the new dwelling will contain the following:

### Ground Floor (RL 88.4)

Entry  
Living room  
Bedroom 5 and 6  
Bathroom.  
Laundry  
Double garage

### (RL88.3)

Kitchen  
Dining  
Family room  
Lounge  
WC  
Rear deck adjoining lounge and family room (approx. 81.46m<sup>2</sup>)  
External WC  
Swimming pool

### First Floor (RL91.55)

Bedroom 1 with walk-in-robe, ensuite and living area  
Small 'juilete' style balcony on northern façade from Bedroom 1  
Bedroom 2, 3 and 4  
Bathroom

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)(iia) – Provisions of any planning agreement                     | None applicable.                                                                                                     |
| Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment   | <u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of |

| Section 79C 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulation 2000 (EP&A Regulation 2000)                                                                                                                                            | <p>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> <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 matter has been addressed via a condition of consent.</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                                                                                                                                      | The site is considered suitable for the proposed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Section 79C 'Matters for Consideration'                                               | Comments                                                                                                            |
|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| site for the development                                                              | 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 process council is in receipt of 3 submission/s from:

| Name:                                           | Address:                                    |
|-------------------------------------------------|---------------------------------------------|
| David Richard Yale                              | 56 Woodbine Street NORTH BALGOWLAH NSW 2093 |
| Mrs Narelle Miriam Pitt                         | 4 Waimea Street NORTH BALGOWLAH NSW 2093    |
| Mr Ian Ross Graham<br>Ms Bernadette Mary Graham | 3 Waimea Street NORTH BALGOWLAH NSW 2093    |

The following issues were raised in the submissions and are addressed as follows:

- **Visual privacy from the rear of the dwelling to the property behind.**

Comment:

The proposed dwelling provides a setback of 7.63m from the rear ground floor level and approximately 20m from the first floor level to the rear, southern boundary. The proposal accommodates adequate setbacks to the rear boundary. Notwithstanding, due to the fall in topography toward the rear of the site, a condition has been included requiring screen planting along the southern boundary with a mature height of at least 2.5m to address the potential for overlooking.

- **Visual privacy and overlooking from the elevated pool deck on the eastern boundary.**

Comment:

While the setbacks to the proposed pool complies with the numerical requirements of WDCP 2011, the concerns raised in relation to overlooking and privacy impacts are considered to have merit due to the elevation of the pool deck at the southern end where the land falls away toward the rear of the site.

In order to address these concerns, the pool structure has been amended to remove the trafficable coping section along the eastern side of the pool effectively increasing the setback

of this structure from the boundary from 0.9m to 1.7m measured to the waters edge. In addition, the application has been conditioned to provide a 1.8m high screen along the entire eastern side of the pool structure extending to include the pergola covered deck area at the northern end of the pool. To provide a softer transition when viewed from the neighbouring property, the condition includes a requirement for appropriate planting to be provided within the setback of the pool and the eastern boundary fence with a mature height of 2.5m. These changes to the design are considered to adequately address the concerns raised in this regard.

- **Loss of privacy from the east facing sliding door D2**

Comment:

This sliding door is in excess of 12m from the eastern boundary neighbour. Further, the privacy screen imposed by condition along the eastern side of the pool and deck will ensure that there are no direct sight lines from this door to the adjoining property.

- **Visually obtrusive 2.7m pergola next to the boundary directly overlooking the indoor and outdoor spaces of No. 3 Waimea Place.**

Comment:

The pergola structure within the proposed development provides a setback to the boundary of 0.9m. This structure is within the side boundary envelope and side setback controls and is considered acceptable. It is noted that there is a condition requiring the privacy screening along the eastern side of the swimming pool to extend to include the pergola area. Accordingly, subject to this condition, there will be no unreasonable privacy impacts from the proposed pergola.

- **Cumulative effect of additional height of pool fence/materials above the boundary fence concentrated on the eastern boundary.**

Comment:

All of the proposed and conditioned elements along the eastern side of this development comply with the side setback and side boundary envelope development controls. Considerations of the impacts on privacy raised has resulted in a more detailed planting and screening solution to be applied in this area which will create adequate privacy with increased setbacks, built screening and landscape screening along the boundary to soften the transition between the two sites.

- **The proposed dwelling is 15.2m wide with a front setback of only 6.5m. The setback does not relate to setbacks within Waimea Street, which are further setback.**

Comment:

The site has a generous width of 19.81m. The proposed dwelling provides setbacks to the side boundaries in excess of the 0.9m minimum required. No reasons for refusal are raised in relation to the width of the dwelling.

The setback of the dwelling is 6.5m which complies with the front building setback development control. There is no expectation for development to provide greater setbacks in this location. No reasons for refusal are raised on planning grounds to the setbacks of the

proposed development.

- **The proposed dwelling will severely reduce 'our' street outlook.**

Comment:

Concerns were raised by the owners of No. 3 Waimea in relation to the 'view loss' to the west that will result at the front of the site. Photos with the proposed dwelling sketched into the image were submitted to support this objection, however it is considered that there are no views, more an outlook to sky and street trees from No. 3 Waimea Street. Further, the proposed dwelling complies with the minimum front and side building setback controls for the site. This issue does not warrant further amendments to the plan and is not considered to hold any determining weight.

- **The house will look too large and dominate surrounding properties. Not in keeping with the streetscape. Dark colour will make it more dominant.**

Comment:

The proposed dwelling complies with most development standards which apply to the site with the exception of the eaves overhang to the second floor roof along the western elevation. The controls incorporate a savings provision in this regard allowing exceptions for eaves overhang up to 0.675m. The proposed development is satisfactory in terms of bulk and scale and is considered an acceptable improvement to the built form within this neighbourhood. No reasons for refusal are raised in relation to the proposed colour of the dwelling.

- **Site Description and dimension references to existing dwelling and adjoining dwellings misleading.**

Comment:

The comments in relation to setbacks for adjoining properties are noted. Notwithstanding, the application has been assessed on the setbacks for the subject site. The setbacks on the adjoining properties do not impact on the assessment of this proposal. This issue does not hold determining weight.

- **Stormwater Runoff - concerns runoff will not be captured by the OSD basin.**

Comment:

The application including all detailed hydraulic drawings relating to OSD and stormwater for the site have been reviewed by Council's Development Engineer who has raised no objections to the proposal in this regard. Accordingly, this issue does not hold determining weight.

- **Objection to the three (3) *Pyrus calleryana* 'Cleveland Select' to be planted along the eastern boundary at the front of the site as they have a mature height of up to 10m and will reduce outlook and cause further overshadowing to No. 3 Waimea Place..**

Comment:

The proposed landscape plan has been considered by Council's Landscape Advisor who raised no concerns with the selected species as they are deciduous and won't cause overshadowing in winter. Further, the area adjoining the location of these plants consists of a hard paved driveway and single storey double garage on the adjoining site. Any overshadowing would be minimal occurring only in the afternoon. Accordingly, this issue does not hold determining weight.

## MEDIATION

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

## REFERRALS

| Internal Referral Body | Comments                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development Engineers  | <p>Development engineer has assessed the proposed On site detention system.</p> <p>The system is designed in accordance with Council's Stormwater Drainage from Low Level Properties PDS- POL 136.</p> <p>The design limit the total discharge which is less than 1 in 5 year ARI state of nature storm event.</p> <p>As such, Development Engineering has no objection subject to following conditions of consent.</p> |
| Landscape Officer      | No objections to approval subject to conditions as recommended                                                                                                                                                                                                                                                                                                                                                          |

| 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. |
| Aboriginal Heritage    | The application was referred to Aboriginal Heritage who raised no objections on heritage issues to the proposed development.                                                                         |

## 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 continued residential land use.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 640102S).

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

| Commitment      | Required Target | Proposed |
|-----------------|-----------------|----------|
| Water           | 40              | 40       |
| Thermal Comfort | Pass            | Pass     |
| Energy          | 40              | 40       |

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 |
|----------|-------------|----------|-------------|----------|
|          |             |          |             |          |

|                               |                   |                                |     |     |
|-------------------------------|-------------------|--------------------------------|-----|-----|
| Minimum subdivision lot size: | 600m <sup>2</sup> | existing - 804.2m <sup>2</sup> | N/A | Yes |
| Height of Buildings:          | 8.5m              | 7.4m                           | Nil | Yes |

#### Compliance Assessment

| Clause                                                               | Compliance with Requirements |
|----------------------------------------------------------------------|------------------------------|
| 2.7 Demolition requires consent                                      | 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                        | 5.85m                         | Nil          | Yes      |
| B3 Side Boundary Envelope                           | 4m - East                   | East - complies               | Nil          | Yes      |
|                                                     | 4m - West                   | West - up to 0.65m            | N/A          | No       |
| B5 Side Boundary Setbacks                           | East - 0.9m                 | 0.9m to pool                  | N/A          | Yes      |
|                                                     | West - 0.9m                 | 1.532m to garage              | N/A          | Yes      |
| B7 Front Boundary Setbacks                          | 6.5m                        | 6.5m to face of dwelling      | Nil          | Yes      |
| B9 Rear Boundary Setbacks                           | 6m                          | 7.673m                        | Nil          | Yes      |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% (321.68m <sup>2</sup> ) | 44.6% (359.03m <sup>2</sup> ) | Nil          | Yes      |

#### Compliance Assessment

| Clause                               | Compliance with Requirements | Consistency Aims/Objectives |
|--------------------------------------|------------------------------|-----------------------------|
| A.5 Objectives                       | Yes                          | Yes                         |
| B3 Side Boundary Envelope            | No                           | Yes                         |
| R2 Side Boundary Envelope Exceptions | Yes                          | Yes                         |
| B5 Side Boundary Setbacks            | Yes                          | Yes                         |
| Side Setbacks - R2                   | Yes                          | Yes                         |
| B7 Front Boundary Setbacks           | Yes                          | Yes                         |
| R2 - All other land in R2 Zone       | Yes                          | Yes                         |
| B9 Rear Boundary Setbacks            | Yes                          | Yes                         |
| All other land under R2              | Yes                          | Yes                         |
| C2 Traffic, Access and Safety        | Yes                          | Yes                         |
|                                      |                              |                             |

| Clause                                           | Compliance with Requirements | Consistency Aims/Objectives |
|--------------------------------------------------|------------------------------|-----------------------------|
| 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                         |
| Residential accommodation - one or two dwellings | 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                         |
| D13 Front Fences and Front Walls                 | Yes                          | Yes                         |
| D14 Site Facilities                              | Yes                          | Yes                         |
| D15 Side and Rear Fences                         | Yes                          | Yes                         |
| D20 Safety and Security                          | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services   | Yes                          | Yes                         |
| D22 Conservation of Energy and Water             | Yes                          | Yes                         |
| E1 Private Property Tree Management              | Yes                          | Yes                         |
| E6 Retaining unique environmental features       | Yes                          | Yes                         |
| E10 Landslip Risk                                | Yes                          | Yes                         |

### Detailed Assessment

### **B3 Side Boundary Envelope**

#### 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:

The proposed development is a two storey dwelling house. The extent of non-compliance with the side boundary envelope control is restricted to the eaves overhang on the western

side of the dwelling. The breach is up to 0.65m over a 1.5m length of the roof overhang.

The proposed dwelling is well articulated and is considered commensurate in height and bulk with development in the vicinity of this site. The proposed dwelling is considered an appropriate mass in context with the scale of the site and an appropriate form of infill development.

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

Comment:

The building provides varying setbacks with 1.532m - 2.567m along the western boundary and 0.9m to 3.106m along the eastern boundary.

While all setbacks are compliant, a condition of consent has been recommended for imposition to increase the setback area adjoining the pool and pergola to 1.7m. Further, this area is to be non-trafficable due to its slightly elevated position relative to the rear of the adjoining dwelling and treated with screening to a height of 1.8m above the finished height of the pool coping. To ensure the aesthetic integrity of the outlook from the neighbouring property towards this area of the site, specific landscape screen planting has been recommended within the setback area to provide landscaped buffer between these dwellings.

The site subject to conditions will provide adequate privacy and separation in this suburban setting.

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

Comment:

The site falls toward the rear and the proposed dwelling has been adequately designed to step down through the middle of the dwelling with the natural fall of the land.

The first floor level of the proposal has been judiciously located within the front section of the house only further reducing the bulk and scale of the development.

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

## D8 Privacy

### Merit consideration

Concerns were raised in relation to privacy from the proposed pool deck overlooking the adjoining property to the east. As the pool structure has been designed as an extension of the rear deck area, the top of the pool is raised out of the ground between 450mm up to 1300mm. Accordingly, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposal initially provided a compliant setback of 0.9m from the pool structure to the eastern boundary, as a result of the pool being elevated to sit level with the ground floor and deck. This created a situation where anyone standing on the eastern side of the pool would have unobstructed view lines over the boundary fence into the adjoining property.

In addressing this, a condition of consent has been recommended reducing the pool coping along the eastern side to be non-trafficable increasing the setback between the waters edge and the boundary to 1.7m. Further, the condition requires a 1.8m high screen along the finished level of the pool along the eastern edge extending along the deck section at the northern end of the pool. Substantial screen planting within the setback of the pool to the eastern boundary is incorporated with this condition to provide further separation for visual and acoustic privacy between these properties.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The design solution for this development ensures that the architectural integrity of the proposed design is maintained while ensuring that the amenity of the adjoining property is adequately preserved.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposed development will maintain personal and property security.

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

## **E10 Landslip Risk**

The site is identified on Council's Landslip Hazard Risk Map as Area A. Accordingly, a geotechnical assessment is not required.

## **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 \$ 710,400 |                  |                |
| <b>Contributions</b>                                         | <b>Levy Rate</b> | <b>Payable</b> |
| Total Section 94A Levy                                       | 0.95%            | \$ 6,749       |
| Section 94A Planning and Administration                      | 0.05%            | \$ 355         |
| Total                                                        | 1%               | \$ 7,104       |

## 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 DA2015/0859 for Demolition works and Construction of a dwelling house on land at Lot 131 DP 12315, 5 Waimea 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

| <b>Architectural Plans - Endorsed with Council's stamp</b> |               |                          |
|------------------------------------------------------------|---------------|--------------------------|
| <b>Drawing No.</b>                                         | <b>Dated</b>  | <b>Prepared By</b>       |
| CC126 Dwg 01 - Rev 01 - Site Plan                          | June 2015     | Classic Country Cottages |
| CC126 Dwg 02 - Rev 01 - Ground Floor Plan                  | June 2015     | Classic Country Cottages |
| CC126 Dwg 03 - Rev 01 - First Floor Plan                   | June 2015     | Classic Country Cottages |
| CC126 Dwg 04 - Rev 01 - Eastern and Northern Elevation     | June 2015     | Classic Country Cottages |
| CC126 Dwg 05 - Rev 01 - Western and Southern Elevation     | June 2015     | Classic Country Cottages |
| CC126 Dwg 06 - Rev 01 - Section 1 and Section 2            | June 2015     | Classic Country Cottages |
| Job No. 15-28 Dwg No.2 - Fence Detail                      | 3 August 2015 | Outside Living           |

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.

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

| <b>Landscape Plans</b>                   |               |                    |
|------------------------------------------|---------------|--------------------|
| <b>Drawing No.</b>                       | <b>Dated</b>  | <b>Prepared By</b> |
| Job No. 15-28 Dwg No. 1 - Landscape Plan | 3 August 2015 | Outside Living     |

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

The development must be carried out in compliance with the following:

| <b>Other Department, Authority or Service</b> | <b>eServices Reference</b>            | <b>Dated</b> |
|-----------------------------------------------|---------------------------------------|--------------|
| Aboriginal Heritage Office                    | Response Aboriginal heritage Referral | 16.09.2015   |

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

**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 (DACPLB09)

#### 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) 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 unsewerred 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

### 5. 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 \$ 710,400 |           |          |
| Contributions                                                | Levy Rate | Payable  |
| Total Section 94A Levy                                       | 0.95%     | \$ 6,749 |
| Section 94A Planning and Administration                      | 0.05%     | \$ 355   |
| Total                                                        | 1%        | \$ 7,104 |

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.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

### 6. Security Bond

A bond (determined from cost of works) of \$2,000 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.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**

### **7. On-site Stormwater Detention Compliance Certification**

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Northern Beaches Consulting Engineers Pty Ltd, drawing number 150675 dated August 2015.

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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

### **8. Vehicle Crossings Application Formwork Inspection**

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

### **9. Tree protection**

(a) Existing trees which must be retained

All trees not indicated as removed on the approved plans, 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, 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 AS4970-2009 Protection of trees on development sites.
- iv) 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. (DACLAC01)

10. **Required Planting – Screening**

Screen planting is to be provided in the area between the swimming pool and the eastern boundary and along the rear southern boundary.

The selected planting is to comprise of native species capable of attaining a minimum height of 2.5 metres at maturity.

Plants are to be planted at minimum 1.5 metre centres and be of a minimum pot size of 25 litres at planting.

Reason: Local amenity (DACLAC01)

11. **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)

**12. 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)

**13. Setback to Pool and Privacy Screen**

The pool coping along the eastern side of the pool is to be reduced as far as possible to ensure the eastern side of the pool is non-trafficable. A setback from the eastern boundary fence of 1.7m measured to the waters edge must be maintained along the eastern side of the pool structure.

A 1.8 metre privacy screen (measured from the finished pool coping level) is to be erected for the entire length of the eastern edge of the pool and adjacent deck/pergola 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)

**14. 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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

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

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of

the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

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

### **16. Property Boundary Levels**

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)

### **17. Vehicle Crossings**

The provision of one vehicle crossing 3.5 metres wide in accordance with Warringah Council Drawing No A4-3330/5 EL and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

### **18. Layback Construction**

A layback 3.5 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

### **19. Maintenance of Road Reserve**

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

Reason: Public Safety. (DACENE09)

### **20. 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)

**21. 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**

**22. Authorisation of Legal Documentation Required for On-site Stormwater Detention**

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

**23. Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land. (DACENF02)

**24. Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

25. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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 modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

26. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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 stormwater disposal is constructed to Council's satisfaction. (DACENF10)

27. **Positive Covenant for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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 ongoing maintenance of the on-site stormwater detention system. (DACENF12)

28. **Creation of Positive Covenant and Restriction as a User**

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

**29. Required Planting**

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

| <b>Minimum No. of Trees Required.</b> | <b>Species</b>                                                                                                                                                                                                     | <b>Location</b>                  | <b>Minimum Pot Size</b> |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-------------------------|
| 2                                     | Tree/s selected from Council's Tree Replacement Guide available at <a href="http://www.warringah.nsw.gov.au">www.warringah.nsw.gov.au</a> or species capable of attaining a minimum height of 5 metres at maturity | 1 x front yard,<br>1 x rear yard | 300mm                   |

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. (DACLAF01)

**30. House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

**31. Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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 compliance with the statutory requirements of Sydney Water. (DACPLF08)

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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**Renee Ezzy, Senior Development Planner**

The application is determined under the delegated authority of:

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**Daniel Milliken, Acting Development Assessment Manager**

**ATTACHMENT A**

No notification plan recorded.

**ATTACHMENT B**

| <b>Notification Document</b>                                                                  | <b>Title</b>     | <b>Date</b> |
|-----------------------------------------------------------------------------------------------|------------------|-------------|
|  2015/272355 | Notification map | 15/09/2015  |

**ATTACHMENT C**

| <b>Reference Number</b>                                                                         | <b>Document</b>                                                                              | <b>Date</b> |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-------------|
|  2015/270088   | Plan - Survey                                                                                | 14/10/2014  |
|  2015/270189   | Report - Waste Management Plan                                                               | 12/06/2015  |
|  2015/270083   | Cost Summary Report                                                                          | 12/06/2015  |
|  2015/270174   | Report BASIX Certificate                                                                     | 08/07/2015  |
|  2015/270168   | Plans - Stormwater                                                                           | 18/08/2015  |
|  2015/270132   | Report Statement of Environmental Effects                                                    | 21/08/2015  |
|  2015/270098   | Plans - Notification                                                                         | 21/08/2015  |
|  DA2015/0859   | 5 Waimea Street NORTH BALGOWLAH NSW 2093 - Development Application - New                     | 09/09/2015  |
|  2015/266972   | DA Acknowledgement Letter - Classic Country Cottages                                         | 09/09/2015  |
|  2015/270158   | Certification of Shadow Diagrams with Plans                                                  | 11/09/2015  |
|  2015/270142   | Plans - Internal                                                                             | 11/09/2015  |
|  2015/270136  | Plans - External                                                                             | 11/09/2015  |
|  2015/270206 | Plans - Master Set                                                                           | 11/09/2015  |
|  2015/270179 | Letters - Easement Neighbour Requests                                                        | 11/09/2015  |
|  2015/270073 | Development Application Form                                                                 | 11/09/2015  |
|  2015/270077 | Applicant Details                                                                            | 11/09/2015  |
|  2015/271122 | File Cover                                                                                   | 14/09/2015  |
|  2015/271129 | Referral to AUSGRID - SEPP - Infrastructure 2007                                             | 14/09/2015  |
|  2015/271135 | Aboriginal Heritage referral                                                                 | 14/09/2015  |
|  2015/272350 | Notification letter 11                                                                       | 15/09/2015  |
|  2015/272355 | Notification map                                                                             | 15/09/2015  |
|  2015/282602 | Online Submission - Yale                                                                     | 23/09/2015  |
|  2015/282631 | Landscape Referral Response                                                                  | 24/09/2015  |
|  2015/285307 | Error - do not use                                                                           | 27/09/2015  |
|  2015/285653 | Online Submission - Pitt                                                                     | 28/09/2015  |
|  2015/296465 | submission graham                                                                            | 30/09/2015  |
|  2015/302239 | Submission Acknowledgement Letter - Bernadette Mary Graham & Ian Ross Graham - SA2015/296465 | 14/10/2015  |
|  2015/324475 | Engineering Referral Response                                                                | 02/11/2015  |
|  2015/348006 | Notice of Determination                                                                      | 23/11/2015  |