

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/1010
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 140 DP 5539, 51 Gardere Avenue CURL CURL NSW 2096
Proposed Development:	Alterations and additions to an existing dwelling to accommodate a studio including the construction of a swimming pool and landscaping
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Tatiana Kim Lowe
Applicant:	Tatiana Kim Lowe

Application lodged:	29/09/2016
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	18/10/2016 to 02/11/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	3
Recommendation:	Approval

Estimated Cost of Works:	\$ 247,000.00
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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 - B9 Rear Boundary Setbacks

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 140 DP 5539 , 51 Gardere Avenue CURL CURL NSW 2096
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Gardere Avenue. The site is regular in shape with a frontage of 10.06m along Gardere Avenue and a depth of 45.305m. The site has a surveyed area of 455.7m². The site is located within the R2 Low Density Residential zone and accommodates a part two and three storey dwelling house with a mainly flat front yard and a steep rear yard. Surrounding development consists of to the west of the site is No.53 Gardere Avenue, a single storey face brick dwelling with a detached garage set back from the street. To the east of the site is No.49 Gardere Avenue, a two storey weatherboard house with a gabled corrugated steel roof. Gardere Avenue comprises of a range of single and double storey dwellings. The street is a cul-de-sac past the intersection with Cooksey Avenue (to west), and has a park at the end of the road.

Map:



SITE HISTORY

DA2010/1279 - Alterations and additions to a dwelling house approved 7 October 2010 (Deferred Commencement).

DA2016/0666 - Alterations and additions to an existing dwelling to accommodate a studio including the construction of a swimming pool and landscaping (Rejected - no Geotechnical Report) on 15 July 2016

PROPOSED DEVELOPMENT IN DETAIL

The proposal consists of the following:

- Excavation of existing lower ground storage facility to allow for new studio
- New swimming pool and spa at the rear of the site
- New rear and side boundary fences
- Modification of side and rear access stairs with proposed landscaping

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 C.

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)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
	authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(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. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Cameron Glen Bennett Mrs Brooke Bennett	40 Curl Curl Parade CURL CURL NSW 2096
Karl Heinz Vogel Mrs Bernadette Elisabeth Vogel	49 Gardere Avenue CURL CURL NSW 2096
Mr Simon John Priest	53 Gardere Avenue CURL CURL NSW 2096

NORTHERN BEACHES COUNCIL

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

- Privacy
- Stormwater/runoff/drainage
- Safety (fence)
- Landscaping
- Swimming pool pumps (location)
- Excavation
- Amenity

The matters raised within the submissions are addressed as follows:

- Privacy
Comment: The proposed swimming pool/spa and studio will be located approximately 20 metres from the principal private open space of the adjoining neighbour to the north (40 Curl Curl Parade). A site inspection noted a number of trees and vegetation within the rear yard of 40 Curl Curl Parade, which may assist with privacy. It is noted that the proposed landscape plan demonstrates planting along the eastern, western and northern edge of the swimming pool between the corresponding boundaries to ensure reasonable amenity for all parties.

Additionally, a condition will be added to ensure the maintenance and perpetuity of these trees and plants as a on-going condition . Given the above it is considered that issue raised has been appropriated addressed and does not warrant refusal and/or further amendment.

- Stormwater/runoff/drainage
Comment: The proposed studio will be located within the existing footprint of the dwelling house and therefore there will minimal increase in impervious areas for the site. The existing stormwater from the dwelling is directed to two (2) 3500 litres slimline tanks on the western side of the dwelling. An easement to drain water was approved as part of previous approval DA2010/1279 - Alterations and additions to a dwelling house which connects to Council drainage infrastructure.

The overflow for the swimming pool and spa will be connected to the sewer system. It is noted that the site and the surrounding sites have large areas of exposed natural rock and therefore it considered that large amount of percolation occurs within the area. This maybe the route cause of runoff after periods of rainfall.

Given the above it considered given good engineering practices and design that adequate measures should be in place. It is considered that the proposal does not warrant further refusal and/or further amendment via condition.

- Safety (fence)
Comment: Concerns were raised in regards to safety given adjoining property owners having children. Given the area will have a swimming pool and spa new fencing will be required to be installed in accordance with the Australia Standards and appropriate legislation.

Additional concerns were raised in relation to amenity and aesthetics of a 1.8m fence been erected on the common boundary. It is noted, however, the legislative requirements for safety must be adhere to and ensure that appropriate measures are in place to ensure compliance with the relevant legislation and Australia Standards.

Given the above it is considered that issue raised has been appropriated addressed and does not warrant refusal and/or further amendment.

- Landscaping

Comment: Concerns were raised in regards to the landscaping around the swimming pool. It is noted that the proposed landscape plan demonstrates planting along the eastern, western and northern edges of the swimming pool between the corresponding boundaries to ensure reasonable amenity for all parties.

Given the above it is considered that issue raised has been appropriated addressed and does not warrant refusal and/or further amendment.

- Swimming & spa pool pumps (location)

Comment: Concerns were raised in relation the location of the swimming pool and spa pumps. It would be considered that the location of these would be located under the proposed terrace or with the rear portion of the yard away from dwellings. A condition be included for either of these locations, within a sound proof housing and not be generated noise levels of 5dB(A) over the background levels when measured at any property boundary.

Given the above it is considered that issue raised has been appropriated addressed and does not warrant refusal and/or further amendment.

- Excavation

Comment: Concerns were raised about the excavations on the site. The proposal was accompanied with a Preliminary Geotechnical Report, which states the following:

"The risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to neighbouring properties or structures provided the recommendations of this report and any future geotechnical directive are implemented. As such the site is considered suitable for the proposed construction works provided that the recommendations outlined in this report are followed."

The recommendations from the Geotechnical Engineer will be incorporated within the conditions for review ensure this outcome. It is considered that issue raised has been appropriated addressed and does not warrant refusal and/or further amendment.

- Amenity

Comment: Issues were raised in relation to visual amenity and acoustic amenity. It is considered that the acoustic amenity will be suitable addressed via condition ensuring reasonable acoustic amenity. The swimming pool will be screened by landscaping and a condition will ensure this in maintained to property adjoining properties enjoy both reasonable privacy and aesthetics.

The requirement of the fencing is a safety issue and needs to be installed in accordance with the legislative requirements. It is considered that issue raised has been appropriately addressed and does not warrant refusal and/or further amendment.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Development Engineers	Development fall away from the street. The applicant will need to comply with Council Stormwater Drainage from low level properties Technical Specification. No Development Engineers objection is raised to the proposed development subject to conditions.
Landscape Officer	The plans indicate that the proposed spa is to be constructed around an existing rock outcrop which traverses adjoining properties. Subject to retention of the rock, no objections are raised 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. A247259 dated 30 June 2016).

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	4.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes

NORTHERN BEACHES COUNCIL

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
Part 6 Additional Local Provisions	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	3.2m	N/A	Yes
B3 Side Boundary Envelope	5m (west)	Within envelope	N/A	Yes
	5m (east)	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m (west)	0.935m	N/A	Yes
	0.9m (east)	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	27.7m	N/A	Yes
B9 Rear Boundary Setbacks	6m & 50%	1.6m & 60%	N/A	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	38.5%* (175.5sqm)	N/A	No

* Existing landscaping 32.4% (147.7sqm)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - R2	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
Rear Boundary Setbacks - R2	No	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes

NORTHERN BEACHES COUNCIL

Clause	Compliance with Requirements	Consistency Aims/Objectives
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting		
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
D16 Swimming Pools and Spa Pools	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	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

Detailed Assessment

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed swimming pool will be located 1.6m from the rear boundary and occupy more than 50% of the rear setback area (60% proposed).

Merit consideration:

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

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

Comment: The proposal has incorporated landscaping to the eastern, northern and western portions between the corresponding boundaries to ensure opportunities for deep soil

landscaping. Additionally, it is noted that percentage of landscaping on the site will increase from the existing 32.4% (147.7sqm) to 38.5% (175.5sqm) ensuring further opportunities for landscaping.

Given the above it is considered that the proposal will satisfy this control.

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

Comment: The site is steep within the rear yard with a slope of 35% grade. It is considered that the proposal is not out of character with similar structures within the rear yards of dwellings on the northern side of Gardere Avenue. Generally a sense of openness within the rear yard will be created ensuring compliance with this merit consideration.

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

Comment: The proposed swimming pool/spa and terrace are looked upon by the adjoining properties to the west (53 Gardere Avenue) and east (49 Gardere Avenue) given the steep topography of the land. The height difference combined with the distance of the adjoining property to the north (40 Curl Curl Parade) was reviewed in detail. It is considered that the proposed landscaping and conditioning for maintaining this landscaping will ensure reasonable privacy for users of this area and adjoining properties.

Given the above it is considered that the proposal satisfies this merit consideration.

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

Comment: The site is steep within the rear yard with a slope of 35% grade. It is considered that the proposal is not out of character with similar structures within the rear yards of dwellings on the northern side of Gardere Avenue. It is considered that this proposal demonstrates adequate compliance with this merit consideration.

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

Comment: The proposed swimming pool/spa and terrace are looked upon by the adjoining properties to the west (53 Gardere Avenue) and east (49 Gardere Avenue) given the steep topography of the land. The height difference combined with the distance of the adjoining property to the north (40 Curl Curl Parade) was reviewed in detail. It is considered that the proposed landscaping and conditioning for maintaining this landscaping will ensure reasonable privacy for users of this area and adjoining properties.

Given the above it is considered that the proposal satisfies this merit consideration.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed landscaping open space is 38.5% (175.5sqm) which non compliant with the 40% (182.3sqm) requirement. It is noted that a improvement on the existing landscaped open area of 32.4% (147.7sqm).

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment: The proposed increased areas for landscaping will enhance the streetscape and ensure compliance with this merit consideration.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment: The proposal overall have attempted to conserve and enhance the topographical features on the site and the increase landscaping will enhance the habitat for wildlife.

Given the above it is considered that the proposal satisfies this merit consideration.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment: The increased landscaping will provide sufficient areas to enable the establishment of a variety of shrubs, plantings and trees to ensure compliance with this merit consideration.

- *To enhance privacy between buildings.*

Comment: The proposed plantings will ensure reasonable privacy is maintained between buildings ensuring compliance with this merit consideration.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment: The proposed increase in landscaping coupled with the proposed swimming pool, spa and associated terrace will ensure compliance with this merit consideration.

- *To provide space for service functions, including clothes drying.*

Comment: There will be sufficient areas for service functions, including clothes drying ensuring compliance with this merit consideration.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment: The increased landscape open space will facilitate adequate on-site infiltration of stormwater. Coupled with the existing two rainwater tanks (each having a capacity of 3500 litres) will ensure compliance with this merit consideration.

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

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 \$ 247,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 2,347
Section 94A Planning and Administration	0.05%	\$ 124
Total	1%	\$ 2,470

CONCLUSION

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

NORTHERN BEACHES COUNCIL

- 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 DA2016/1010 for Alterations and additions to an existing dwelling to accommodate a studio including the construction of a swimming pool and landscaping on land at Lot 140 DP 5539, 51 Gardere Avenue, CURL CURL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA2 -01 (Rev C)	27/6/16	Richard Cole Architecture
DA2 - 02 (Rev C)	27/6/16	
DA2 - 03 (Rev C)	27/6/16	
DA2 - 04 (Rev C)	27/6/16	
DA2 - 05 (Rev C)	27/6/16	
DA2 - 06 (Rev C)	27/6/16	

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Report on Geotechnical Site Investigation	September 2016	Crozier Geotechnical Consultants

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 and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(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

(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

Northern Beaches Council 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:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 247,000.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 2,346.50

NORTHERN BEACHES COUNCIL

Section 94A Planning and Administration	0.05%	\$ 123.50
Total	1%	\$ 2,470.00

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 Northern Beaches Council's Development Contributions Plan.

5. **Security Bond**

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

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

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

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

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

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

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

Stormwater shall be disposed of to an existing approved system or in accordance with Council's "Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the "Water Management Policy PL 850" are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development. (DACENC02)

7. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Parts C8 and C9 of the WDCP 2011 and Council's Waste Management Guidelines (that apply to land covered by the WLEP 2011).

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

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

8. **Tree protection**

(a) Existing trees which must be retained

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

(b) Tree protection

- i) No tree roots greater than 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
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

9. **Protection of rock**

- i) The detail design of the spa is to ensure that the rock outcrop in the rear yard is retained.
- ii) Construction Certificate drawings are to indicate that the spa is to be constructed around the existing rock outcrop in the rear yard and that the rock outcrop is to be protected during works.
- ii) The plans are to be submitted to the Principal Certifying Authority for approval prior to issue of a construction certificate.

Reason: Protection of significant environmental features.(DACLACPCC1)

10. **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

**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)

11. 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)

12. 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 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

13. Swimming Pool/Spa Pumps/Filters

The location of the above structures are to be located under the terrace and/or at the

northern portion (between the swimming pool and the northern property boundary).

Reason: Amenity (acoustic) (DACPLDPC2)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **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)

15. **Waste Management During Development**

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

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

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

16. **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)

17. **Protection of rock and sites of significance**

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

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

Reason: Preservation of significant environmental features (DACLAEOG1)

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

18. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

Note: The following Standards and Codes applied at the time of determination:

(a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage

(b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage

(c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

19. **Waste Management Confirmation**

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

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

20. **Swimming Pool Requirements**

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

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

(i) Swimming Pools Act 1992;

(ii) Swimming Pools Amendment Act 2009;

(iii) Swimming Pools Regulation 2008

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

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

instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

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

21. **Landscaping**

The landscaping/planting surrounding the swimming pool/spa/terrace area on the western, northern and eastern sides is to be maintained to ensure reasonable levels of amenity are maintained to adjoining properties and users.

Reason: Amenity (privacy)

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

Phil Lane, Senior Development Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

NORTHERN BEACHES COUNCIL

ATTACHMENT A

Notification Plan	Title	Date
 2016/329993	Plan - Notification	30/06/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/342039	Notification map	18/10/2016

NORTHERN BEACHES COUNCIL

ATTACHMENT C

Reference Number	Document	Date
 2016/329992	Plans - Survey	29/07/2010
 2016/330014	Report - BASIX Certificate	30/06/2016
 2016/329993	Plan - Notification	30/06/2016
 2016/329994	Report - Statement of Environmental Effects	30/06/2016
 2016/329995	Cost Summary Report	30/06/2016
 2016/330017	Report - Geotechnical	23/09/2016
 DA2016/1010	51 Gardere Avenue CURL CURL NSW 2096 - Development Application - Alterations and Additions	29/09/2016
 2016/324707	DA Acknowledgement Letter - Tatiana Kim Lowe	29/09/2016
 2016/329956	Development Application Form	06/10/2016
 2016/329971	Applicant Details	06/10/2016
 2016/330010	Plans - External	06/10/2016
 2016/330013	Plans - Internal	06/10/2016
 2016/342038	Notification Letter - 9	18/10/2016
 2016/342039	Notification map	18/10/2016
 2016/346054	Master set	21/10/2016
 2016/347429	Online Submission - Bennett	24/10/2016
 2016/353084	Online Submission - Vogel	27/10/2016
 2016/357445	Development Engineering Referral Response	01/11/2016
 2016/357836	Online Submission - Priest	01/11/2016
 2016/377616	Landscape Referral Response	17/11/2016