

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                           |                                                                         |
|-------------------------------------------|-------------------------------------------------------------------------|
| <b>Application Number:</b>                | DA2018/1452                                                             |
| <b>Responsible Officer:</b>               | Nick England                                                            |
| <b>Land to be developed (Address):</b>    | Lot 339 DP 12316, 17 Kimo Street NORTH BALGOWLAH NSW 2093               |
| <b>Proposed Development:</b>              | Alterations and additions to a dwelling house including a swimming pool |
| <b>Zoning:</b>                            | Warringah LEP2011 - Land zoned R2 Low Density Residential               |
| <b>Development Permissible:</b>           | Yes                                                                     |
| <b>Existing Use Rights:</b>               | No                                                                      |
| <b>Consent Authority:</b>                 | Northern Beaches Council                                                |
| <b>Land and Environment Court Action:</b> | No                                                                      |
| <b>Owner:</b>                             | Christopher Patrick Raper<br>Emily Mary Jane Newman                     |
| <b>Applicant:</b>                         | Novam Design Studio Eyal Snehor                                         |
| <b>Application lodged:</b>                | 03/09/2018                                                              |
| <b>Integrated Development:</b>            | No                                                                      |
| <b>Designated Development:</b>            | No                                                                      |
| <b>State Reporting Category:</b>          | Residential - Alterations and additions                                 |
| <b>Notified:</b>                          | 06/09/2018 to 24/09/2018                                                |
| <b>Advertised:</b>                        | Not Advertised                                                          |
| <b>Submissions Received:</b>              | 6                                                                       |
| <b>Recommendation:</b>                    | Approval                                                                |
| <b>Estimated Cost of Works:</b>           | \$ 382,894.00                                                           |

### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights  
 Warringah Development Control Plan - B3 Side Boundary Envelope  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 339 DP 12316 , 17 Kimo Street NORTH BALGOWLAH NSW 2093                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the eastern side of Kimo Street, North Balgowlah.</p> <p>The site is irregular in shape with a frontage of 13.58m and a depth of 48.77m. The site has a surveyed area of 668.9m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a split-level dwelling house and outbuilding.</p> <p>The site has a significant slope toward the eastern (rear) boundary.</p> <p>The site has significant rock outcrops and vegetation to the rear of the existing dwelling.</p> <p>Adjoining and surrounding development is characterised by dwelling houses.</p> |

Map:



## SITE HISTORY

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

PLM2018/0116: A pre-lodgement meeting was held on 14 June 2018, to discuss proposed alterations and addition to the existing dwelling house. The matters discussed in this meeting and the recommendation provided in the notes, have formed the basis for the proposal lodged as part of the subject application.

## PROPOSED DEVELOPMENT IN DETAIL

The application proposes alterations and additions to the existing dwelling house, consisting of:

- extensions to the 1<sup>st</sup> floor for re-configured living area, kitchen, master bedroom and extended balcony on east elevation;
- internal works to ground floor, conversion of existing garage to habitable floor space;
- swimming pool to rear of existing dwelling; and
- carport for two (2) vehicles.

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

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

| Section 4.15 Matters for Consideration'                                       | Comments                                                               |
|-------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |

| Section 4.15 Matters for Consideration'                                                                                   | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan                                                    | Warringah Development Control Plan 2011 applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement                                                         | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, permits Council to request additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. Correspondence was sent to the applicant on 6 December 2018, in which an invitation for amended plans was provided. The time taken to respond has since been factored into the total assessment time for this application.</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 4.15 Matters for Consideration'                                                                                                                                            | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development                                                                                                             | The site is considered suitable for the proposed development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs                                                                                             | See discussion on “Notification & Submissions Received” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Section 4.15 (1) (e) – the public interest                                                                                                                                         | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 6 submission/s from:

| Name:                                                    | Address:                                     |
|----------------------------------------------------------|----------------------------------------------|
| Christina Gail Budden                                    | 3 Newell Place FRENCHS FOREST NSW 2086       |
| Mr Desmond Earl Budden<br>(Estate of the Late)           | 50 Condoover Street NORTH BALGOWLAH NSW 2093 |
| Mrs Sandra Mae Kaplan                                    | 2 / 13 - 15 Ethel Avenue BROOKVALE NSW 2100  |
| Paul Bernard Kaplan                                      | 2 / 13 - 15 Ethel Avenue BROOKVALE NSW 2100  |
| Mr Andrew David Tomlinson<br>Mrs Amanda Louise Tomlinson | 15 Kimo Street NORTH BALGOWLAH NSW 2093      |



| Name:                                    | Address:                                    |
|------------------------------------------|---------------------------------------------|
| Mr Werner Krapf<br>Mrs Dalila Rosa Krapf | 46 Condover Street NORTH BALGOWLAH NSW 2093 |

A total of four (4) submissions were received from adjoining properties during the submission period.

The submissions from Christina Gail Budden and Mr Desmond Earl Budden (Estate of the Late) relate to the one property, No.50 Condover Street.

Effected adjoining properties were also informally advised of the amendments.

The issues raised in the submissions have been summarised and are addressed as below:

- *The proposed development will not comply with the objectives of the Warringah Local Environmental Plan 2011 (WLEP 2011).*

Comment: The application, as amended, is consistent with the objectives of the WLEP 2011.

- *The proposed development will not comply with the objectives and requirements of the Warringah Development Control Plan 2011 (WDCP 2011), relating to: Side Boundary Envelope; Stormwater; Private Open Space; Noise; Privacy; and Swimming Pools and Spa Pools.*

Comment: The application has been amended to reduce the extent of the breaches with the side boundary envelope control of WDCP 2011. All other matters pertinent to the other controls mentioned have been adequately addressed.

- *The proposed development will effect the visual and acoustic privacy of the adjoining dwellings at No.46 and 48 Condover Street.*

Comment: A detailed assessment of the potential privacy impacts is provided elsewhere in this report. In summary, there are no adverse impacts on the privacy of adjoining dwellings in regards to visual privacy. In regard to the potential acoustic impact caused by the pool, this is not a reasonable point on which to refuse the application - pools are common forms of development ancillary to dwelling houses and provide recreation opportunities typical of dwellings.

- *The proposed development will result in adverse visual impact when viewed from the adjoining properties at No.48 and 50 Condover Street.*

Comment: The amended development is generally consistent with the relevant controls and provides an adequate visual response to the topography of the site. In this regard, there is no adverse visual impact and this is not valid reason to refuse the application.

- *The proposed development will result in a loss of existing natural rock outcrops on the site.*

Comment: Council's Landscape Officer has reviewed the application and advised that the level of disturbance to existing rock outcrops is acceptable.

- *The proposed development will result in a adverse loss of views from the adjoining dwelling at No.15 Kimo Street.*

Comment: A detailed assessment of the potential view loss impacts is provided elsewhere in this report. In summary, the extent of the view loss caused as a result of the development is acceptable and does not warrant refusal of the application.

- *An easement to dispose of surplus stormwater from the proposed catchment system on the site should be provided on the adjoining property at No.46 Condoover Street, prior to the application being approved.*

Comment: Council's Development Engineer has reviewed the application and advised that the proposed development will meet the stormwater management policies of Council, without the need for an easement through an adjoining property. No adverse impact in regard to stormwater is therefore likely.

- *The proposal will cause stormwater management impacts on the adjoining properties at No.46, No.48 and No.50 Condoover Street.*

Comment: Council's Development Engineer has reviewed the application and advised that the proposed development will meet the stormwater management policies of Council. No adverse impact on these adjoining properties in regard to stormwater is therefore likely.

## MEDIATION

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

## REFERRALS

| Internal Referral Body         | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Landscape Officer              | <p>The plans indicate that a healthy street tree is to be removed to accommodate the proposed driveway. Retention of the tree would be preferable, however it is understood that due to engineering requirements, the driveway is required to conform with Councils standards for crossovers over the road reserve.</p> <p>Replacement planting of a mature size is recommend if the proposal is to be approved.</p> <p>Rock outcrops in the rear yard are indicated to be largely retained with works for the pool avoiding the major features,. Other existing native trees in the rear yard are also indicated for retention.</p> |
| NECC (Development Engineering) | Development Engineer has no objection to the application subject to the conditions of consent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| 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 |

| External Referral Body     | Comments                                                                 |
|----------------------------|--------------------------------------------------------------------------|
|                            | assumed that no objections are raised and no conditions are recommended. |
| Aboriginal Heritage Office | No objection.                                                            |

## **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.A325644 dated 31 August 2018).

The BASIX Certificate indicates that the development will achieve the sustainability requirements of the SEPP.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

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

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



power line.

Comment:

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

**Warringah Local Environmental Plan 2011**

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

Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 8.2m     | N/A         | Yes      |

Compliance Assessment

| Clause                          | Compliance with Requirements |
|---------------------------------|------------------------------|
| 2.7 Demolition requires consent | Yes                          |
| 4.3 Height of buildings         | 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         | 5.1m (north)                                                                             | N/A          | Yes        |
|                            |              | 7.7m (east - dwelling)                                                                   | 6            | Yes        |
|                            |              | 5.2m (south)                                                                             | N/A          | Yes        |
|                            |              | 5.8m (east)                                                                              | N/A          | Yes        |
|                            |              | 8.1m (east - pool)                                                                       | 11           | No         |
| B3 Side Boundary Envelope  | 4m (north)   | Pool: breach of 0.5m (height) x 3.5m (length)<br>Dwelling: 2.4m (height) x 3.7m (length) | N/A          | No         |
|                            | 4m (south)   | No breach                                                                                | N/A          | Yes        |
| B5 Side Boundary Setbacks  | 0.9m (north) | 1.42 - 2.49m (dwelling)<br>2.49m (pool)                                                  | N/A<br>N/A   | Yes<br>Yes |
|                            | 0.9m (south) | 1.3m (dwelling)                                                                          | N/A          | Yes        |
| B7 Front Boundary Setbacks | 6.5m         | 3.5m (carport)                                                                           | 46           | No         |

|                                                     |     |                             |            |            |
|-----------------------------------------------------|-----|-----------------------------|------------|------------|
| B9 Rear Boundary Setbacks                           | 6m  | 9.4m (stairs)<br>13m (pool) | N/A<br>N/A | Yes<br>Yes |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% | 291m <sup>2</sup> or 43.5%  | N/A        | Yes        |

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

| Clause                                          | Compliance with Requirements | Consistency Aims/Objectives |
|-------------------------------------------------|------------------------------|-----------------------------|
| A.5 Objectives                                  | Yes                          | Yes                         |
| B1 Wall Heights                                 | No                           | Yes                         |
| B3 Side Boundary Envelope                       | No                           | Yes                         |
| B5 Side Boundary Setbacks                       | Yes                          | Yes                         |
| B7 Front Boundary Setbacks                      | No                           | Yes                         |
| B9 Rear Boundary Setbacks                       | Yes                          | Yes                         |
| C2 Traffic, Access and Safety                   | Yes                          | Yes                         |
| C3 Parking Facilities                           | Yes                          | Yes                         |
| C4 Stormwater                                   | Yes                          | Yes                         |
| C5 Erosion and Sedimentation                    | Yes                          | Yes                         |
| C7 Excavation and Landfill                      | Yes                          | Yes                         |
| C8 Demolition and Construction                  | Yes                          | Yes                         |
| C9 Waste Management                             | Yes                          | Yes                         |
| D1 Landscaped Open Space and Bushland Setting   | Yes                          | Yes                         |
| D2 Private Open Space                           | Yes                          | Yes                         |
| D6 Access to Sunlight                           | Yes                          | Yes                         |
| D7 Views                                        | Yes                          | Yes                         |
| D8 Privacy                                      | Yes                          | Yes                         |
| D9 Building Bulk                                | Yes                          | Yes                         |
| D10 Building Colours and Materials              | Yes                          | Yes                         |
| D11 Roofs                                       | Yes                          | Yes                         |
| D12 Glare and Reflection                        | Yes                          | Yes                         |
| D14 Site Facilities                             | Yes                          | Yes                         |
| D16 Swimming Pools and Spa Pools                | Yes                          | Yes                         |
| D20 Safety and Security                         | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services  | Yes                          | Yes                         |
| E1 Preservation of Trees or Bushland Vegetation | Yes                          | Yes                         |
| E6 Retaining unique environmental features      | Yes                          | Yes                         |
| E10 Landslip Risk                               | Yes                          | Yes                         |

### Detailed Assessment

## B1 Wall Heights

### Description of non-compliance

The wall height of the dwelling on the east elevation is estimated at 7.6m from the existing ground level of this dwelling. This is a 6% variation with the minimum standard.

The wall height of the pool structure on its north-eastern corner is a maximum height of 8.1m. This represents an 11% variation with the standard.

### Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment: In respect to the breach that occurs on the east elevation of the dwelling, this relates to a small portion of the wall beneath the upper skillion roof, approximately 400mm. In the context of the entire works proposed, the additional visual impact caused by the non-compliance will be negligible and full compliance would have little benefit in this regard.

In respect to the pool wall, the non-compliance relates to the north-eastern corner of the wall. This is a result of the steeply falling topography on this part of the site, with the majority of the pool structure within the height control. This part of the wall is also obscured by significant vegetation, further reducing the visual impact.

The development is therefore consistent with this objective.

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

Comment: Significant tree cover exists on the site and the wall height proposed will be consistent with the height of the surrounding tree canopy, both on and off the site. The development is therefore consistent with this objective.

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

Comment: A consideration of the potential view loss caused by the development is provided elsewhere in this report. In summary, the extent of the variation proposed to the wall height control on the east elevation will not result in any unreasonable loss of views. The development is therefore consistent with this proposal.

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

Comment: There will be no adverse amenity impact caused as a result of the non-compliance with the wall height control. The objective is achieved in this regard.

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

Comment: The numerical variations to the wall height are minor in the context of the entire development proposed. An adequate response to the existing topography is provided. The development is therefore consistent with this objective.

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

Comment: Sufficient variation is provided in the roof design to achieve this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **B3 Side Boundary Envelope**

#### Description of non-compliance

The following breaches of the side boundary envelope control are proposed:

- Pool: 0.5m (height) x 3.5m (length); and
- dwelling: 2.4m (height) x 3.7m (length).

The application has been amended twice to reduce the extent of the envelope breaches 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 that development does not become visually dominant by virtue of its height and bulk.*

Comment: The extent of the breaches proposed, in the context of the total works proposed, are not considered visually dominant. The overall design of the dwelling is consistent with this objective.

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

Comment: The application has been amended twice, to ensure that the pool and the upper ground floor balcony are within the boundary envelope. The north-eastern corner of the pool structure is still slightly outside of the boundary envelope, however only to a minor extent, on the upper edge of the pool balustrade. This breach will have no tangible impact on the privacy of adjoining dwellings.

In regard to the breach on the north elevation of the dwelling's upper floor, the dwelling has been amended to: reduce the area of the balcony to ensure it is not outside of the envelope; and the window on the dwelling wall has been reduced in area and lower sill height of 1.65m. These

amendments have been carried out to ensure limited potential for overlooking into adjoining properties.

The development is hence consistent with this objective.

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

Comment: The development provides sufficient variation in total building heights to ensure that an adequate response to the site's topography is provided.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B7 Front Boundary Setbacks**

### Description of non-compliance

The proposed carport is located at a distance of 3.5m from the front boundary of the site. This represents a 46% variation with the minimum requirement.

### Merit consideration:

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

- *To create a sense of openness.*

Comment: The proposed carport is an ancillary, open structure. In the context of the topography of the site, which falls away to the rear boundary, this structure is at lower level than the adjoining road reserve. Combining these factors, the carport will provide an adequate sense of openness to achieve this objective.

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

Comment: Whilst the majority of dwellings and structures on the eastern side of Kimo Street are behind the minimum front setback, closer structures to the front setback exist on the opposite (western) side of the street (at Nos.24 and 26). The carport adjoins a curve in Kimo Street, where the adjoining properties have their rear yards. These areas are undeveloped and create an unusual context and visual pattern. Hence, the location of the proposed carport is appropriate and able to achieve the objective.

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

Comment: The proposed carport provides an appropriate response to the existing streetscape and is therefore consistent with this objective.

- *To achieve reasonable view sharing.*

Comment: There will be no adverse loss of views that are enjoyed from adjoining properties, as a result of the non-compliance with the front setback control

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **D7 Views**

A submission has been received from an adjoining property, raising objection based on the potential loss of views. The property in question is:

- No.15 Kimo Street.

This property adjoins the subject site at No.17 Kimo Street, on its southern boundary. A site inspection of this property was undertaken on 23 October 2018.

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

### Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

#### **1. Nature of the views affected**

*"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".*

### Comment to Principle 1:

The property at No.15 Kimo Street enjoys a sweep of views from the north-west to the east, encompassing the following specific locations: Condoover Street Reserve to the north (obscured by existing vegetation); the ridgeline of the Trig Reserve to the north-west, north and north-east; district views towards Manly Vale and Manly to the east; and small views of the ocean and the ridges of North Head.

#### **2. What part of the affected property are the views obtained**

*"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing*



views. The expectation to retain side views and sitting views is often unrealistic”.

#### Comment to Principle 2:

The views that have been described above are enjoyed from the following parts of the dwelling: ground floor living room; ground floor sun-room; ground floor kitchen; ground floor deck adjoining living room and a 1st floor bedroom. All views are from a standing and seated position, with the views in the sun-room restricted to mostly standing, given that the existing dwelling at No.17 and existing vegetation obscures most of the views across this side boundary.

The views from the living room and the bedroom are enjoyed across a side boundary. The views from the sun-room, kitchen and deck are gained across both a side and rear boundary.

### **3. Extent of impact**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

#### Comment to Principle 3:

A consideration of the extent of the view loss is provided below, based on the loss from each of the specific rooms:

Ground floor living room: a major loss of the potential views to Condoover Street and the ridge adjoining Trig Reserve is likely.

Ground floor sun-room: a minor loss of the views to Condoover Street and the ridge adjoining Trig Reserve is likely.

Kitchen: a minor loss of the views to Condoover Street and the ridge adjoining Trig Reserve is likely.

Deck: a very minor loss of the views to Condoover Street and the ridge adjoining Trig Reserve is likely.

1<sup>st</sup> floor bedroom: major loss of the Trig Reserve ridgeline.

### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

#### Comment to Principle 4:

The reasonableness of the impact, from the perspective of each of the individual rooms, and the

entirety of the effected property, is provided below:

Living room: The windows of this room face the south elevation of the existing dwelling and the proposed additions. The south elevation of the proposed works will be consistent with the relevant planning controls. As identified previously, the views enjoyed from this room are relatively limited and obscured by existing vegetation. Whilst there will be a loss of these obscured views to Condover Street Reserve and ridge line above, a severe loss of the potential to see these landmarks is not likely, even in a siting position. Therefore, the view loss in these circumstances is not considered unreasonable.

Sun-room and Kitchen: A minor loss of the views identified, in both a standing and seated position, is likely. Therefore, the view loss in these circumstances is not considered unreasonable.

Deck: A very minor loss of the views identified, in both a standing and seated position, is likely. Therefore, the view loss in these circumstances is not considered unreasonable.

The extent of the view loss, considered over the entirety of the works, is reasonable.

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

Comment: The proposal provides sufficient innovation to achieve this objective.

- *To ensure existing canopy trees have priority over views.*

Comment: There are a number of existing canopy trees on the site which will not be removed or adversely effected by the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **D8 Privacy**

The application has been amended a number of times, to mitigate the privacy impact to adjoining dwellings. These amendments include:

- relocating the pool further away from the northern boundary;
- moving the upper level balcony further from the northern boundary and reducing it's overall area;
- amending the dining room window on the north elevation to be a smaller, high-light window; and
- relocating the service stairs from the north elevation and the east elevation.

The amendments will have the effect of significantly reducing the potential for overlooking, to a degree that is not considered adverse or that warrants the refusal of the application. The pool and upper level balcony are outdoor areas that will be used intermittently and have now been amended to be consistent with the objectives of the relevant planning controls, in particular the side boundary envelope controls. Their design and location is typical for modern urban environments and the level of impact that they will create is not considered unreasonable.

## **POLICY CONTROLS**

## Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

| Northern Beaches Council Contributions Plan 2018             |           |          |
|--------------------------------------------------------------|-----------|----------|
| Contribution based on a total development cost of \$ 382,894 |           |          |
| Contributions                                                | Levy Rate | Payable  |
| Total Section 7.12 Levy                                      | 0.95%     | \$ 3,637 |
| Section 7.12 Planning and Administration                     | 0.05%     | \$ 191   |
| Total                                                        | 1%        | \$ 3,829 |

## 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 DA2018/1452 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 339 DP 12316, 17 Kimo Street,

NORTH BALGOWLAH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

**1. Approved Plans and Supporting Documentation**

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

**a) Approved Plans**

| <b>Architectural Plans - Endorsed with Council's stamp</b> |                  |                    |
|------------------------------------------------------------|------------------|--------------------|
| <b>Drawing Title / No.</b>                                 | <b>Dated</b>     | <b>Prepared By</b> |
| A-01 Revision A                                            | 14 December 2018 | Novam              |
| A-08 Revision A                                            | 14 December 2018 | Novam              |
| A-09 Revision A                                            | 14 December 2018 | Novam              |
| A-10 Revision A                                            | 14 December 2018 | Novam              |
| A-11 Revision A                                            | 14 December 2018 | Novam              |
| A-12 Revision A                                            | 14 December 2018 | Novam              |
| A-14 Revision A                                            | 14 December 2018 | Novam              |
| A-15 Revision A                                            | 14 December 2018 | Novam              |
| A-15.1 Revision A                                          | 14 December 2018 | Novam              |
| A-15 Proposed Sections Revision A                          | 14 December 2018 | Novam              |
| A-16 Revision A                                            | 14 December 2018 | Novam              |
| A-17 Revision A                                            | 14 December 2018 | Novam              |

| <b>Engineering Plans</b> |              |                         |
|--------------------------|--------------|-------------------------|
| <b>Drawing No.</b>       | <b>Dated</b> | <b>Prepared By</b>      |
| DA01 Issue A             | 31 May 2018  | NB Consulting Engineers |
| DA02 Issue A             | 31 May 2018  | NB Consulting Engineers |
| DA03 Issue A             | 31 May 2018  | NB Consulting Engineers |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                 |                                  |
|-----------------------------------------------------------------------------------------|-----------------|----------------------------------|
| <b>Report Title / No.</b>                                                               | <b>Dated</b>    | <b>Prepared By</b>               |
| Geotechnical Inspection Report                                                          | 24 October 2017 | Crozier Geotechnical Consultants |
| BASIX Certificate No.A325644                                                            | 31 August 2018  | Novam Design Studio              |
| Bushfire Risk Assessment                                                                | 21 August 2018  | BPAD                             |
| Arboricultural Impact Assessment                                                        | 25 August 2018  | Complete Arborcare               |

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

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

| Landscape Plans |                  |             |
|-----------------|------------------|-------------|
| Drawing No.     | Dated            | Prepared By |
| A-19            | 14 December 2018 | Novam       |

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

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

## 2. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (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) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

| Northern Beaches Council Contributions Plan 2018                |           |             |
|-----------------------------------------------------------------|-----------|-------------|
| Contribution based on a total development cost of \$ 382,894.00 |           |             |
| Contributions                                                   | Levy Rate | Payable     |
| Total Section 7.12 Levy                                         | 0.95%     | \$ 3,637.49 |
| Section 7.12 Planning and Administration                        | 0.05%     | \$ 191.45   |
| Total                                                           | 1%        | \$ 3,828.94 |

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 Contributions Plan 2018.

### 5. Security Bond

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

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

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

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

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

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

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

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "WARRINGAH WATER MANAGEMENT POLICY PL850. Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's "Warringah Water Management Policy PL 850" are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

### **7. Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

### **8. Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

### **9. Sydney Water "Tap In"**

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

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

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

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

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

10. **Waste Management Plan**

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

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

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

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

12. **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.

13. **Tree removal within the road reserve**

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

| Species                          | Location                               |
|----------------------------------|----------------------------------------|
| 1 x <i>Eucalyptus haemastoma</i> | Kimo St road reserve forward of the pr |

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

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

Reason: Public liability

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

14. **Road Reserve**

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

Reason: Public Safety.

15. **Vehicle Crossings**

The provision of one vehicle crossing 3 metres wide at kerb and 4 metres wide at boundary in accordance with Northern Beaches 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.

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

a) All rock outcrops outside of or below 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.

17. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

**18. 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 Council's 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.

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

**19. 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

**20. Required Planting**

i) Trees shall be planted in accordance with the following schedule:

| No.<br>of<br>Trees<br>Required. | Species                                                                       | Location                                                                                                                                                      | Minimum Pot<br>Size |
|---------------------------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1                               | Tree/s selected capable of attaining a minimum height of 4 metres at maturity | Front yard                                                                                                                                                    | 200mm               |
| 1 Street<br>tree                | <i>Eucalyptus haemastoma</i> (Scribbly Gum)                                   | Kimo Street<br>road reserve<br>forward of the<br>property, clear<br>of driveway<br>sightlines and<br>generally in<br>alignment with<br>other street<br>trees. | 75 litres           |

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

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

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

Reason: To maintain environmental amenity.



21. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

22. **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)

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

**Signed**



**Nick England, Planner**

The application is determined on 08/02/2019, under the delegated authority of:



**Anna Williams, Manager Development Assessments**