

3.3	33 Water Reserve Road North Balgowlah - Alterations and Additions to an Existing Dwelling House, New Swimming Pool and Extension to the Existing Garage and New Front Fence
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SECTION 96 1(a) ASSESSMENT REPORT

Assessment Officer:	Keith Wright
Address / Property	Lot 262 DP 12316 (No.33) Water Reserve Road NORTH BALGOWLAH
Description of Works: MOD2010/0123	Amendments to proposed alterations and additions to the dwelling and swimming pool.

Application No:	MOD2010/0123
Development Application No:	DA2009/0696
Application Lodged:	07/06/10
Plans Reference:	2017/01 and 2017/2
Applicant:	G W Bryan
Owner:	G W Bryan, N A Bryan

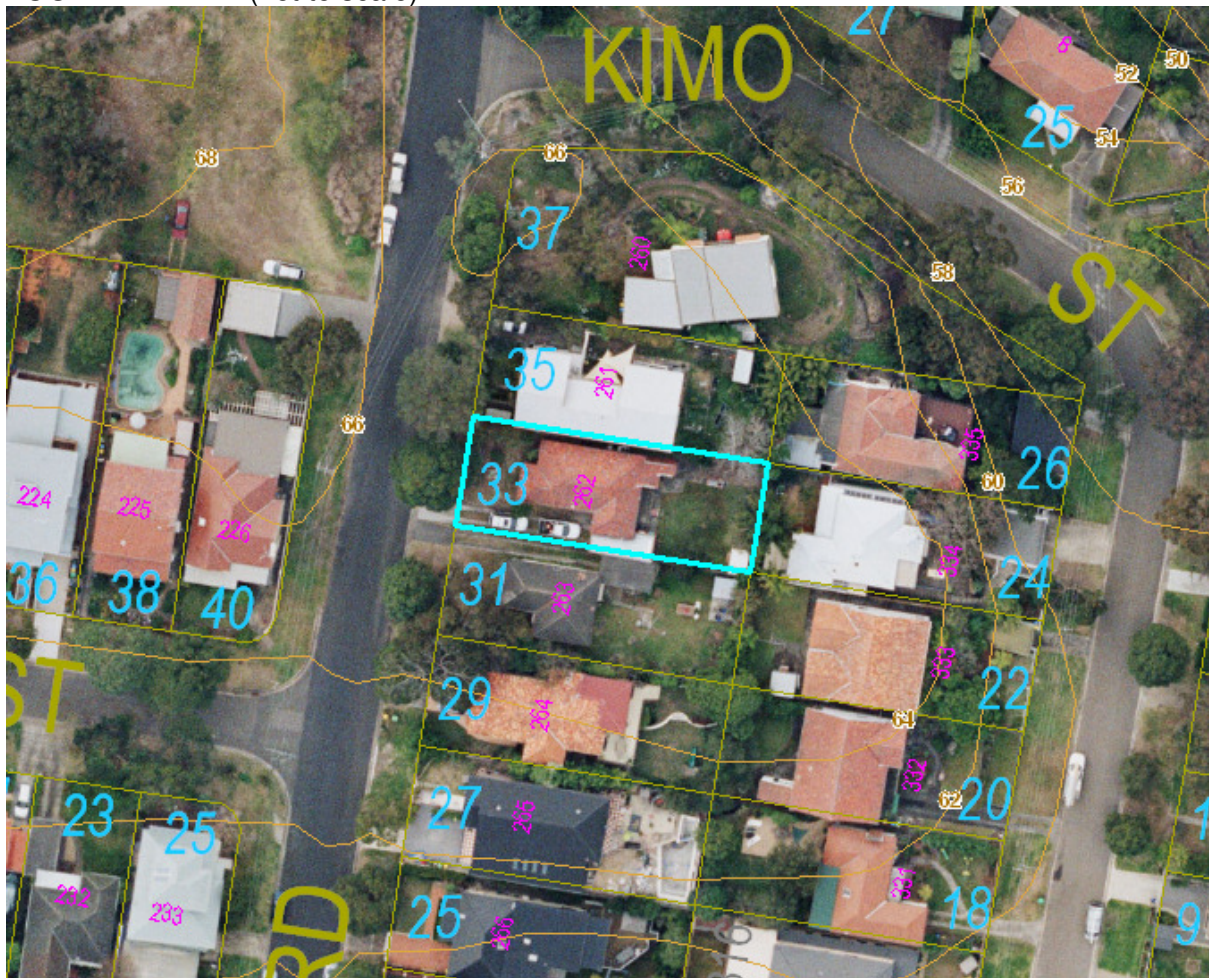
Locality:	G3 Manly Lagoon Suburbs
Category:	Category 1 - Housing
Variations to Controls (Cl.20/Cl.18(3)):	NO
Referred to ADP:	YES
Referred to WDAP:	NO
Land and Environment Court Action:	NO

SUMMARY

Submissions:	Three (3)
Submission Issues:	Need for geotechnical advice; Potential noise issues;
Assessment Issues:	As above
Recommendation:	Approval
Attachments:	Site Plan and Elevations



LOCALITY PLAN (not to scale)



Subject Site: Lot 262 DP 12316 (No.33) Water Reserve Road NORTH
BALGOWLAH NSW 2093

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to seven (7) adjoining land owners and occupiers for a period of 14 calendar days commencing on 16 June 2010 and being finalised on 1 July 2010.

SITE DESCRIPTION

The site is located at Lot 262 DP 12316 (No.33) Water Reserve Road, North Balgowlah. The site is relatively flat and is currently occupied by a one-storey dwelling, with a single car garage located approximately 115mm from the side (south) boundary. Surrounding development consists predominately of one and two storey residential dwellings.

PROPOSED MODIFICATIONS

Amendments to the dwelling including enlarging the front balcony, laundry entry and swimming pool, window and internal changes and relocation of the pool an additional metre from the rear and southern boundaries.

Report Section	Applicable	Complete & Attached
Section 1 – Code Assessment	☒ Yes ☐ No	☒ Yes ☐ No
Section 2 – Issues Assessment	☒ Yes ☐ No	☒ Yes ☐ No
Section 3 – Site Inspection Analysis	☒ Yes ☐ No	☒ Yes ☐ No
Section 4 – Application Determination	☒ Yes ☐ No	☒ Yes ☐ No

SECTION 96(1a) EPA ACT 1979

Section 96(1A) (a) – Is the Modification to Consent of Minimal Environmental Impact?	☒ Yes ☐ No
Section 96(1A) (b) – Would the consent as proposed to be modified be substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was previously modified?	☒ Yes ☐ No
Section 96(1A) (c) & (d) – Has the application been on Public Exhibition? Have you considered any submissions?	☒ Yes ☐ No ☐ N/A ☒ Yes ☐ No ☐ N/A
Section 96 (3) – Have you considered such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application?	☒ Yes ☐ No

Estimated Cost of Works: N/a for this application

Are S94A Contributions Applicable?

☐ Yes ☒ No - N/a for this application

Notification Required?

☒ Yes ☐ No

Submissions Received?

☒ Yes ☐ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

No. of Submissions: 3

Are any trees impacted upon by the proposed development? ☐ Yes ☒ No

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

WLEP 2000

Locality: G3 Manly Lagoon Suburbs

Development Definition: ☒ Housing ☒ Ancillary Development to Housing ☐ Other

Category of Development: ☒ Category 1 ☐ Category 2 ☐ Category 3

Draft WLEP 2009 Permissible or Prohibited Land use: Permissible

Desired Future Character:

☒ Category 1 Development with no variations to BFC's.

Is the development considered to be consistent with the Locality's Desired Future Character

Statement? ☒ Yes ☐ No

Built Form Controls Approved under DA2009/0696:

Built Form Standard	Required	Proposed	Compliance
Housing density	1 dwelling per 600m ² of site area.	1 dwelling on existing 499m ² allotment.	YES (no change)
Building Height	8.5m (overall) 7.2m (ground to ceiling)	8.2m 7.74m	YES NO. See Clause 20
Front building setback	6.5m	7.4m	YES
Rear building setback	6m Outbuilding to occupy no more than 50% of rear building setback area.	6.9m 16% of rear setback area	YES
Side boundary setback	0.9 metres	0.92m (northern boundary). 0.9m (southern boundary).	YES
Side boundary envelope	45 degrees from 4m above natural ground level at the side boundaries	Encroachment on the northern elevation with a height of 0.9m and a length of 10.6m	No. See Clause 20
Landscaped open space	40% of the site area.	38.88% of landscaped open space provided, or 5.6m ² deficient.	No. See Clause 20

Built Form Controls MOD2010/0123:

<p>Building Height (overall):</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 8.5m</p> <p>☐ 11.0m</p> <p>☐ Other</p>	<p>☒ Unchanged</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Building Height (underside of upper most ceiling):</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 7.2m</p> <p>☐ Other</p>	<p>☒ Unchanged</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Front Setback:</p> <p>Applicable: ☒ Yes ☐ No</p>	<p>☒ Unchanged</p>

Built Form Controls MOD2010/0123:	
<p>Requirement:</p> <p>☒ 6.5m</p> <p>☐ Other</p> <p>Is the Corner Allotment / Secondary Street Frontage control applicable?:</p> <p>☐ Yes ☒ No</p>	<p>Complies: ☒ Yes ☐ No</p>
<p>Housing Density: (Site 499.5sqm)</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☐ 1 dwelling per 450sqm</p> <p>☒ 1 dwelling per 600sqm</p> <p>☐ Other</p>	<p>☒ Existing and unchanged</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Landscape Open Space:</p> <p>Applicable: ☒ Yes ☐ No</p> <p>☒ 40% (.....200sqm)</p> <p>☐ 50% (.....sqm)</p> <p>☐ Other</p>	<p>☐ Existing and unchanged</p> <p>Proposed:.....37.8% (.....189sqm)</p> <p>Complies: ☒ Yes ☐ No</p> <p>A Trapeze calculation revealed that the LOS actually is greater with the modified proposal despite the figure given in the above table for DA2009/0696. Trapeze is a far more accurate method of measurement and has been introduced to supersede previous manual scaling methods.</p>
<p>Rear Setback:</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 6.0m</p> <p>☐ Other</p> <p>Outbuildings:</p> <p>Requirement:</p> <p>☒ 50% of rear setback</p> <p>☐ Other</p>	<p>☐ Existing and unchanged to rear deck</p> <p>Proposed: ... 2m to pool (previously 1 metre)</p> <p>Complies: ☒ Yes ☐ No</p> <p>Outbuildings:</p> <p>☐ Existing and unchanged</p> <p>Proposed:20.2%</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Side Boundary Envelope:</p> <p>Applicable: ☒ Yes ☐ No</p>	<p>Boundary: ☒ Nth ☐ Sth ☐ Est ☐ Wst</p>

Built Form Controls MOD2010/0123:	
Requirement: ☐ 4m / 45 degrees ☐ 5m / 45 degrees ☐ Other	☒ Unchanged Complies: ☒ Yes ☐ No Boundary: ☐ Nth ☒ Sth ☐ Est ☐ Wst ☐ Unchanged Complies: ☒ Yes ☐ No
Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary ☒ Nth ☐ Sth ☐ Est ☐ Wst ☒ Unchanged for the dwelling Proposed:8m for the pool Complies: ☒ Yes ☐ No Boundary ☐ Nth ☒ Sth ☐ Est ☐ Wst ☒ Unchanged for the dwelling Proposed:2m for the pool Complies: ☒ Yes ☐ No

General Principles of Development Control:	
CL38 Glare & reflections Applicable: ☐ Yes ☒ Not for this proposal	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL39 Local retail centres Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL40 Housing for Older People and People with Disabilities Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL41 Brothels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL42 Construction Sites Applicable: ☐ Yes ☒ No – already addressed under DA2009/0696	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL43 Noise Applicable: ☐ Yes ☒ No – already addressed under DA2009/0696	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL44 Pollutants Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL45 Hazardous Uses Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL46 Radiation Emission Levels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL47 Flood Affected Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL48 Potentially Contaminated Land Applicable: ☒ Yes ☐ No	Complies: Based on the previous land uses is the site likely to be contaminated? ☐ Yes ☒ No Is the site suitable for the proposed land use? ☒ Yes ☐ No
CL49 Remediation of Contaminated Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL49a Acid Sulfate Soils Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL50 Safety & Security Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL51 Front Fences and Walls Applicable: ☐ Yes ☒ Not for this proposal	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL53 Signs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL54 Provision and Location of Utility Services Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL55 Site Consolidation in 'Medium Density Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL56 Retaining Unique Environmental Features on Site Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL57 Development on Sloping Land Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL58 Protection of Existing Flora Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL59 Koala Habitat Protection Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL60 Watercourses & Aquatic Habitats Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL61 Views Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL62 Access to sunlight Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL63 Landscaped Open Space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL63A Rear Building Setback Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL64 Private open space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL65 Privacy Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL66 Building bulk Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL67 Roofs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL69 Accessibility – Public and Semi-Public Buildings Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL70 Site facilities Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL71 Parking facilities (visual impact) Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL72 Traffic access & safety Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL73 On-site Loading and Unloading Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL74 Provision of Carparking Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL75 Design of Carparking Areas Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL76 Management of Stormwater Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL77 Landfill Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL78 Erosion & Sedimentation Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL79 Heritage Control Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL81 Notice to Heritage Council Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL82 Development in the Vicinity of Heritage Items Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL83 Development of Known or Potential Archaeological Sites Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

Schedules:	
Schedule 5 State policies Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 6 Preservation of bushland Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 7 Matters for consideration in a subdivision of land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

Schedules:	
Schedule 8 Site analysis Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
Schedule 9 Notification requirements for remediation work Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 10 Traffic generating development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 11 Koala feed tree species and plans of management Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 12 Requirements for complying development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 14 Guiding principles for development near Middle Harbour Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 15 Statement of environmental effects Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 17 Carparking provision Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No

Other Relevant Environmental Planning Instruments:

SEPPs: Applicable? ☒ Yes ☐ No

SEPP Basix: Applicable?

☒ Yes ☐ No

If yes: Has the applicant provided Basix Certification?

☒ Yes ☐ No

SEPP 55 Applicable?

☒ Yes ☐ No

Based on the previous land uses is the site likely to be contaminated?

☐ Yes ☒ No

Is the site suitable for the proposed land use?

☒ Yes ☐ No

**SEPP Infrastructure
Applicable?**

☒ Yes ☐ No

**Is the proposal for a swimming pool:
Within 30m of an overhead line support structure?**

☐ Yes ☒ No

Within 5m of an overhead power line ?

☐ Yes ☒ No

Does the proposal comply with the SEPP?

☒ Yes ☐ No

REPs: Applicable?: ☐ Yes ☒ No

EPA Regulation Considerations:	
Clause 54 & 109 (Stop the Clock) Applicable: ☐ Yes ☒ No	
Clause 92 (Demolition of Structures) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 92 (Government Coastal Policy) Applicable: ☐ Yes ☒ No	Is the proposal consistent with the Goal and Objectives of the Government Coastal Policy ? ☐ Yes ☐ No
Clause 93 & 94 (Fire Safety) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No

EPA Regulation Considerations:	
Clause 94 (Upgrade of Building for Disability Access) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 98 (BCA) Applicable: ☒ Yes ☐ No	Already addressed via condition? ☒ Yes ☐ No

REFERRALS		
Referral Body/Officer	Required	Response
Development Engineering	☐ Yes ☒ No	
Landscape Assessment	☐ Yes ☒ No	
NEU	☐ Yes ☒ No	
Aboriginal Heritage	☐ Yes ☒ No	Previously referred. No objections raised.
Env. Health and Protection	☐ Yes ☒ No	
NSW Rural Fire Service	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to previous conditions ☐ Unsatisfactory
Energy Australia	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory

Applicable Legislation/ EPI's /Policies:

- | | |
|---|---|
| ☒ EPA Act 1979 | ☐ Water Act 1912 |
| ☒ EPA Regulations 2000 | ☒ Swimming Pools Act 1992; |
| ☐ Disability Discrimination Act 1992 | ☒ SEPP No. 55 – Remediation of Land |
| ☐ Local Government Act 1993 | ☐ SEPP No. 71 – Coastal Protection |
| ☐ Roads Act 1993 | ☒ SEPP BASIX |
| ☐ Rural Fires Act 1997 | ☒ SEPP Infrastructure |
| ☐ RFI Act 1948 | ☒ WLEP 2000 |
| ☐ Water Management Act 2000 | ☒ WDCP |

☐ S94 Development Contributions Plan

☐ NSW Coastal Policy (cl 92 EPA Regulation)

☐ S94A Development Contributions Plan

☐ Other

SECTION 79C EPA ACT 1979	
Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	☒ Yes ☐ No
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	☒ Yes ☐ No
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	☒ Yes ☐ No
Section 79C (1) (a)(iia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	☐ Yes ☐ No ☒ N/A
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	☒ Yes ☐ No
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	☒ Yes ☐ No
Section 79C (1) (c) – Is the site suitable for the development?	☒ Yes ☐ No
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	☒ Yes ☐ No
Section 79C (1) (e) – Is the proposal in the public interest?	☒ Yes ☐ No

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: Dwelling House (and pool)

Land Use Zone: R2 – Low Density Residential

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: N/a

Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Minimum Subdivision Lot Size:	N/a			
Rural Subdivision:	N/a			
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/a			
Height of Buildings:	8.5m	Unchanged at 8.2m	Yes	

The proposed development is consistent with the aims and objectives of the Draft WLEP 2009.

SECTION 2 – ISSUES

(Note to DAO, delete Section 2 if not applicable.)

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

As a result of the public exhibition of the application Council received submissions from:

Name	Address
R Cooke	22 Kimo Street, North Balgowlah (rear on south side)
D and J Carruthers	24 Kimo Street, North Balgowlah (directly behind)
P and T Bennett	26 Kimo Street, North Balgowlah (rear on north side)

The following issues were raised in the submission by Cooke :

- Need for geotechnical advice;
- Potential noise nuisance from pool users;

The matters raised within the submissions are addressed as follows:

- Need for geotechnical advice – the objector states that there is a rock shelf and drainage issues which warrant the need for preliminary advice in relation to excavation and potential damage to his property;

Comment: This matter was addressed already in the report to ADP whereby it was decided that the standard condition relating to excavations and responsibilities was adequate in these circumstances. The condition used, No. 4 (e), “Prescribed Conditions” read as follows:

- 4 (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:*
- protect and support the adjoining premises from possible damage from the excavation, and*
 - where necessary, underpin the adjoining premises to prevent any such damage.*
 - 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.*
 - 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)*

It is noted that the proposed pool is small in size and has a flat bottom making the excavation minimal. Further, the pool will be located further distant from his property. Notwithstanding this assessment, it is considered appropriate to add a specific condition in light of the advice from this and the other objectors that a rock shelf exists and potential damage from vibrations. The condition should require submission of a geotechnical engineers report prior to release of the

Construction certificate and that the recommendations relating to the method of excavation should be adopted. In addition a dilapidation report should be required of the objectors' properties.

- Potential noise nuisance from pool users – the objector has repeated this same objection, which was addressed in the report to ADP, was considered unreasonable and was not actioned.

Comment: The pool already has been approved and the objection does not provide grounds for revocation of this approval.

The following issues were raised in the submission by Carruthers :

- Lack of privacy;
- People and filter noise;
- Lack of plantings;
- Need for geotechnical advice;

The matters raised within the submissions are addressed as follows:

- Lack of privacy – the objectors state that there will be a privacy issue from the upstairs rooms and deck;

Comment: The impact of privacy was raised by these objectors previously. The ARP accepted the advice that the proposed works will not cause adverse impact with respect to visual privacy. It is to be noted that the modification does not add to privacy issues, in that the design is virtually the same and the windows and deck are no closer to the objectors' property.

- People and filter noise;

Comment: People noise has been discussed in the previous comments on objection from Cooke. The filter is to be located under the deck on the opposite side of the pool to the objectors' property. This is sufficient distance as not to be seen and with appropriate noise controls conditioned in the consent, should not be heard.

- Lack of plantings;

Comment: The landscape plan approved under DA2009/0696 shows ample planting throughout the property including the area between the pool and the objectors' property. There is no basis for this objection.

- Need for geotechnical advice;

Comment: This issue has been addressed already under a previous heading.

The following issue was raised in the submission by Bennett:

- Need for geotechnical advice;

The matters raised within the submissions are addressed as follows:

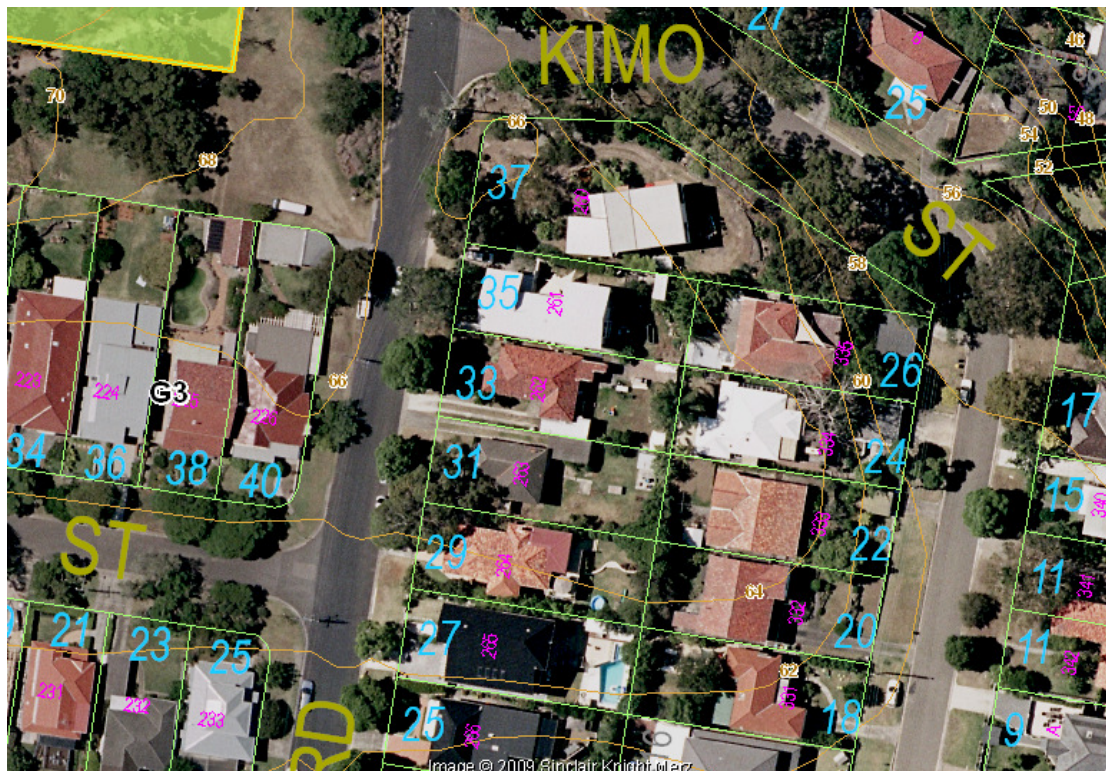
- Need for geotechnical advice;

Comment: This issue has been addressed already under a previous heading.

MEDIATION

Has mediation been requested by the objectors?	☐ Yes / ☒ No
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SECTION 3 – SITE INSPECTION ANALYSIS



Site area499.5sqm

Detail existing onsite structures:

- ☐ None
- ☒ Dwelling
- ☐ Detached Garage
- ☐ Detached shed
- ☐ Swimming pool
- ☐ Tennis Court
- ☐ Cabana
- ☐ Other

Site Features:

- ☒ None
- ☐ Trees
- ☐ Under Storey Vegetation
- ☐ Rock Outcrops
- ☐ Caves
- ☐ Overhangs

- ☐ Waterfalls
- ☐ Creeks / Watercourse
- ☐ Aboriginal Art / Carvings
- ☐ Any Item of / or any potential item of heritage significance

Potential View Loss as a result of development

- ☐ Yes ☒ No

If Yes where from (in relation to site):

- ☐ North / South
- ☐ East / West
- ☐ North East / South West
- ☐ North West / South East

View of:

- Ocean / Waterways ☐ Yes ☐ No
- Headland ☐ Yes ☐ No
- District Views ☐ Yes ☐ No
- Bushland ☐ Yes ☐ No
- Other:

Bushfire Prone?

☐ Yes ☒ No

Flood Prone?

☐ Yes ☒ No

Affected by Acid Sulfate Soils

☐ Yes ☒ No

Located within 40m of any natural watercourse?

☐ Yes ☒ No

Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?

☐ Yes ☒ No

Located within 100m of the mean high watermark?

☐ Yes ☒ No

Located within an area identified as a Wave Impact Zone?

☐ Yes ☒ No

Any items of heritage significance located upon it?

☐ Yes ☒ No

Located within the vicinity of any items of heritage significance?

☐ Yes ☒ No

Located within an area identified as potential land slip?

☐ Yes ☒ No

Is the development Integrated?

☐ Yes ☒ No

Does the development require concurrence?

☐ Yes ☒ No

Is the site owned or is the DA made by the "Crown"?

☐ Yes ☒ No

Have you reviewed the DP and s88B instrument?

☒ Yes ☐ No

Does the proposal impact upon any easements / Rights of Way?

☐ Yes ☒ No



Site Inspection / Desktop Assessment Undertaken by:

**Does the site inspection
<Section 3> confirm the
assessment undertaken against
the relevant EPI's <Section's 1 &
2>?**

☒ Yes ☐ No

**Are there any additional matters
that have arisen from your site
inspection that would require
any additional assessment to be
undertaken?**

☐ Yes ☒ No

If yes provide detail:

.....
.....
.....
.....
.....

SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, Draft Warringah Local Environmental Plan 2009 and the relevant codes and policies of Council and the proposed development is considered to be:

- ☒ Satisfactory
☐ Unsatisfactory

Recommendation:

THAT Council as the consent authority grant approval to modify Development Consent No. DA2009/0696 under MOD2010/0123 to make alterations and additions to an existing dwelling house, new swimming pool and extension to the existing garage and new front fence at Lot 262 DP 12316, 33 Water Reserve Road NORTH BALGOWLAH as follows:

A Condition 1 is amended to read –

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:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
2017/01 Amendment D	14/04/10	Rob Crump Design
2017/02 Amendment D	14/04/10	Rob Crump Design

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

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

Landscape Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
79.09/131	May 2009	iscape landscape architecture

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

B. Condition 1(a) is added to read –

1(a) Compliance with External Department, Authority or Service Requirements

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

External Department, Authority or Service name	Letter Reference
Energy Australia	G:\Planning\Correspondence\CJP 17 June 2010

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

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

C. Condition 8 (a) is added to read –

8 (a) Engineering Advice

A geotechnical engineer's report is to be obtained and lodged with the application for a Construction Certificate detailing the recommended plan for excavation in relation to the approved works at the site. The recommendations in the report are to be adopted during site works and certified by the engineer. Further, a structural engineer's dilapidation report is to be obtained and lodged with the application for a Construction Certificate, specifically for the adjacent properties 22, 24 and 26 Kimo Street, North Balgowlah and properties immediately on the northern and southern sides.

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

Reason: In order to ensure safe practices during site preparation works.

