

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 14 March 2016

22 A Taylor Street North Curl curl - Alterations and additions to a dwelling house

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2015/1150
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Responsible Officer:	Daniel Milliken
Land to be developed (Address):	Lot 2 DP 881047, 22 A Taylor Street NORTH CURL CURL NSW 2099
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	Marilyn Anna Goff
Applicant:	Marilyn Anna Goff

Application lodged:	24/11/2015
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	08/12/2015 to 14/01/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	7
Recommendation:	Approval

Estimated Cost of Works:	\$ 82,000.00
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into

account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - B9 Rear Boundary Setbacks

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

Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 2 DP 881047 , 22 A Taylor Street NORTH CURL CURL NSW 2099
Detailed Site Description:	The site is located at the eastern end of the Taylor Street cul-de-sac, has a relatively small site area of 174.8sqm and slopes down towards the south. Existing on the site is a two storey dwelling that shares a party wall with the dwelling on No. 22 Taylor Street. The surrounding development consists of detached residential dwellings. Being semi detached, the subject site is an anomaly within the street. There is a public reserve to the south, adjoining the site.

Map:



SITE HISTORY

The existing dwelling was approved under Consent No: 94/387 which granted consent for the construction of an attached dual occupancy. The project was subsequently subdivided and the subject dwelling sits on the road frontage lot.

A prelodgement meeting (PLM2015/0030) was held for the current proposal. Relevant advice given in the notes included:

"The loss of views for the properties to the north will be critical during the assessment of this application. It is difficult to determine the extent of any view loss without entering the properties that will be affected. A view loss analysis that addresses the Land and Environment Court Planning Principle must be submitted with the DA."

The non-compliances with the wall height, the side boundary envelope and the boundary setbacks controls can be considered on merit provided they do not result in unreasonable view loss.

The design and the statement of environmental effects must demonstrate compliance with the building bulk control."

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves alterations and additions to an existing dwelling house and includes:

- The demolition of the roof and a portion of the first floor.
- The construction of a new second floor addition comprising a bedroom, ensuite, study, lounge room and bathroom.
- Alterations to the existing first floor to accommodate the second floor addition.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of

the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&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. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social

Section 79C 'Matters for Consideration'	Comments
	impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Mr Darren Lee Tye	PO Box 693 DEE WHY NSW 2099
Mr Alan James Pictor	54 Robertson Road NORTH CURL CURL NSW 2099
Mr Norman Charles McArthur	14 Taylor Street NORTH CURL CURL NSW 2099
Mrs Catherine Rosemary Hoffmann	20 Taylor Street NORTH CURL CURL NSW 2099
Mr Andrew Shane Hoffmann	20 Taylor Street NORTH CURL CURL NSW 2099
Ms Margaret Ann Mullins	16 Taylor Street NORTH CURL CURL NSW 2099

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

- Design, the streetscape, bulk and a lack of architectural quality
- A lack of information in the application and incorrect information
- Over-development of the site
- View loss
- Proposed use
- Setbacks
- Height
- Access, parking, traffic and safety
- Landscaped open space
- Lack of consultation

The matters raised within the submissions are addressed as follows:

- **Design, the streetscape and a lack of architectural quality**

The submissions raised concerns that the proposal will not fit within the streetscape, has an unreasonable bulk and has a lack of architectural quality.

Comment:

The proposal is a reasonable response to the circumstances of the site. It is reasonably articulated, being stepped in, in parts, from the northern and southern elevations. The addition will sit below the maximum height limit and below the upper ridge height of No. 22 Taylor Street. In this regard, the addition will not be unreasonable within the streetscape and will not be visually dominant due to its bulk. While opinions on the proposal's architectural quality will differ, this is not considered to be a reason for refusal.

- **A lack of information in the application and incorrect information.**

The submissions raised concerns that the application did not contain enough information and that some of the information provided was incorrect.

Comment:

The application provided enough information that, along with site visits to the subject site and all affected nearby properties, enabled Council to conduct a detailed assessment of the proposal. The assessment involved reviewing and measuring the plans and reviewing the Statement of Environmental Effects. Referrals were sent to other Council departments for comment.

Particular concerns were raised in the submissions around the survey and the floor to ceiling height of the proposed addition.

The survey is sufficient to show the boundaries of the site and when read along with the site plans, provides an accurate indication of the development. The plans submitted with the application provide a minimum 2.4m floor to ceiling height. This meets the minimum Building Code of Australia requirements and is acceptable on merit. The stamped plans showing all relevant floor levels will form part of the consent.

- **Over-development of the site**

The submissions raised concerns that given the small size of the site, a three storey, three bedroom dwelling is an over-development of the site.

Comment:

The site is 174.8sqm in area, however, this does not prevent the proposed number of storeys or bedrooms. What is critical, is how the proposal performs against the controls and the impacts the additions will have on surrounding and nearby properties.

In this particular case, the upper floor addition is satisfactory when assessed against the controls, as discussed in detail in this report, including the fact that it remains within the 8.5m height limit, complies with the side setback controls and is contained within the existing footprint. The proposal will also not result in any unreasonable amenity impacts or any unreasonable loss of views, as discussed in detail below.

In summary, the addition is not considered to be an over-development of the site.

- **View loss**

The submissions raised concerns that the proposal will result in an unreasonable loss of views.

Comment:

This matter is discussed in detail under Part D7 - Views, below in this report. In summary, the proposal complies with the 8.5m height limit (at a maximum height of 8.435m) and in this particular case, the maximum height is the key control in relation to preserving views for affected properties.

The submissions raised concerns with the non-compliances with the side boundary envelopes on the northern and southern elevations. Enforcing full compliance with the side boundary envelopes would not change the amount of views lost or retained given that the height of the proposal is the critical element for the preservation of views in this particular case. While the proposal has other technical non-compliances, such as the front and rear setbacks, the site is relatively small and the addition is proposed within the footprint of the existing dwelling. This is reasonable in the circumstances.

Overall, given the compliance with the height control and the relatively small proportion of total views that will be affected from the neighbouring properties, the proposal is satisfactory and will achieve a reasonable sharing of views.

- **Proposed use**

The submissions raised concerns that the upper floor addition may be used as a secondary dwelling and that the existing garage is being used to run a business with cars subsequently required to be parked on the street.

Comment:

The proposal does not seek consent for the upper floor to be used as a secondary dwelling. A condition will be included in the consent to ensure that it is not used as such.

In relation to the use of the garage. This matter has been referred to Council's Compliance and Enforcement Team for further investigation.

- **Setbacks and envelopes**

The submissions raised concerns that the proposal does not comply with the front or rear setbacks and does not comply with the side boundary envelopes on the northern or southern elevations.

Comment:

The existing dwelling sits on a nil rear and a 6.0m front setback. In the circumstances, it is reasonable for the upper floor addition to match these setbacks, given the existing built form and the fact that these non-compliances will not have any unreasonable amenity impacts on the neighbouring properties.

The non-compliance with the northern and southern side boundary envelopes will have no overshadowing or view loss implications given where they are located and the additions remaining under the height limit.

This site is unusual in its small size, which is a product of previous planning controls for dual occupancies, which allowed the existing situation. Requiring full compliance with both the front and rear setbacks is unreasonable.

- **Height**

The submissions raised concerns that the proposal exceeds the 8.5m height limit.

Comment:

The proposal reaches a maximum height of 8.435m. This is within the 8.5m control and is compliant.

- **Access, parking, traffic and safety**

The submissions raised concerns that the addition of an extra bedroom will increase the number of cars in the street and that if the garage is being used as a business, the cars that would ordinarily be parked there will be left on the street, creating a safety concern for young children who live nearby.

Comment:

The proposal does add one bedroom to the dwelling, however, the existing garage does have the capacity to accommodate two cars (provided it is used for that purpose which, as mentioned above, will be investigated by Council's Compliance and Enforcement Team). This meets Council's requirements and if the garage is used for its intended purpose, the development will not result in congestion or safety impacts to young children that is different to any other residential dwelling in the street.

- **Landscaped open space**

The submissions raised concerns that the site does not provide sufficient landscaped open space.

Comment:

The proposal will not decrease or alter the existing landscaped open space on the site which is approximately 19.3sqm (11.04% of the site). Given the current nature of the development, the site has no capacity to increase this amount of landscaped open space. Given the proposed addition is entirely within the existing footprint and that there will be no decrease to the landscaped open space on the site, this matter should not comprise a reason for refusal.

- **Lack of consultation**

The submissions raised concerns that the applicants did not consult with the owners and residents of nearby dwellings about the proposal.

Comment:

There is no requirement for applicants to consult with neighbouring property owners or residents. Council is the assessment body for applications and in this case, formally notified all affected properties, reviewed all submissions and conducted site visits at all objectors properties to better understand their concerns and assess the impacts.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
Development Engineers	No Development Engineering objection is raised to the proposed development.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A235534 dated 18 November 2015).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

Warringah Local Environment Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8.435m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	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	7.95m	10.42%	No
B3 Side Boundary Envelope	North - 5m	Encroachment of between 170mm and 370mm in height for a length of 2.07m	3.4% - 7.4%	No
	South - 5m	Encroachment of between nil and 650mm in height for a length of 2.85m	0% - 13%	No
B5 Side Boundary Setbacks	North - 0.9m	0.9m	N/A	Yes
	South - 0.9m	3.6m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Existing dwelling - 6.0m Proposed addition - 6.0m	7.69%	No
B9 Rear Boundary Setbacks	6m	Existing dwelling - Nil		

		Proposed addition - Nil	100%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	11.04% (19.3sqm)	72.4%	No change

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
R2 Side Boundary Envelope Exceptions	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
R2 - All other land in R2 Zone	No	Yes
B9 Rear Boundary Setbacks	No	Yes
All other land under R2	No	Yes
Rear Boundary Exceptions - R2	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposal seeks a maximum wall height of 7.95m.

The control requires a maximum of 7.2m.

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.*
- *To ensure development is generally beneath the existing tree canopy level.*
- *To provide a reasonable sharing of views to and from public and private properties.*
- *To minimise the impact of development on adjoining or nearby properties.*
- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*
- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The upper floor addition will remain within the 8.5m height limit (at a maximum of 8.435m) and has been stepped in, in parts, from the northern and southern elevations of the existing structure. The proposal will leave a portion of the existing roof as an element to break up the design and is considered to be reasonably articulated.

Given the level of compliance with the height and side setbacks and the lower land level when compared to No. 20 Taylor Street to the north, the proposal will not appear unreasonably out of place within the street and will remain below the maximum ridge height of No. 22 Taylor Street (the dwelling sharing a party wall with the subject site).

No canopy trees will be impacted and, by remaining within the height limit, the proposal responds appropriately to the site topography.

View loss has been discussed in detail under Part D7 - Views below in this report. In summary, the proposal will not result in an unreasonable loss of views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) 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

North Elevation - encroachment of between 170mm and 370mm in height for a length of 2.07m

South Elevation - encroachment of between nil and 650mm in height for a length of 2.85m

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.*
- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*
- *To ensure that development responds to the topography of the site.*

Comment:

The upper floor addition will remain within the 8.5m height limit (at a maximum of 8.435m) and has been stepped in, in parts, from the northern and southern elevations of the existing structure. The proposal will leave a portion of the existing roof as an element to break up the facade and is considered to be reasonably articulated.

Given the level of compliance with the height and side setbacks, the proposal will not appear out of place within the street, will remain below the maximum ridge height of No. 22 Taylor Street and will not become visually dominant by virtue of its height or bulk.

Spatial separation to the neighbouring property to the north is provided due to the existing driveway to No. 22 Taylor Street providing an adequate buffer. Given the difference in height between Nos. 20 and 22A Taylor Street, the spatial separation is reasonable.

No canopy trees will be impacted and the proposal, by staying under the height limit, responds appropriately to the site topography.

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

B7 Front Boundary Setbacks

Description of non-compliance

The upper floor addition is set back 6.0m from the front boundary.

The control requires a minimum of 6.5m.

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.*
- *To maintain the visual continuity and pattern of buildings and landscape elements.*
- *To protect and enhance the visual quality of streetscapes and public spaces.*
- *To achieve reasonable view sharing.*

Comment:

The proposal will maintain the same front setback as the existing dwelling. The addition is reasonably articulated and given the context of the small site, the surrounding structures and the siting of the existing dwelling, is a reasonable outcome within the streetscape.

The existing sense of openness will be maintained as will the amount of landscaped open space on the site.

View loss has been discussed in detail under Part D7 - Views below in this report. In summary, the proposal will not result in an unreasonable loss of views.

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

B9 Rear Boundary Setbacks

Description of non-compliance

The upper floor addition is proposed with a nil setback to the rear boundary.

The control requires a minimum of 6.0m.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*
- *To create a sense of openness in rear yards.*
- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*
- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*
- *To provide opportunities to maintain privacy between dwellings.*

Comment:

Given the relatively small size of the site, the existing dwelling being located on a nil setback and Nos. 22 and 22A Taylor Street sharing a party wall, there is no existing rear setback or sense of openness.

Given the level of compliance with the height and side setbacks, the proposal will not appear out of place within the street, will remain below the maximum ridge height of No. 22 Taylor Street and will not result in

unreasonable privacy impacts.

In this particular case, a nil rear setback is considered to be reasonable.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The site currently includes 11.04% as landscaped open space. The proposed upper floor addition will not reduce this amount.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*
- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*
- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*
- *To enhance privacy between buildings.*
- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*
- *To provide space for service functions, including clothes drying.*
- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The site has no capacity to provide additional landscaped open space. The proposed upper floor addition will not reduce the existing area and the site will therefore continue the same level of compliance with the objectives listed above as in the past.

The new upper level balcony will provide an additional area of usable outdoor space for the residents.

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

D7 Views

Merit consideration

With regard to the consideration for a variation, 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:

Views from the following properties will be affected:

No. 20 Taylor Street
No. 16 Taylor Street
No. 14 Taylor Street

From No. 20 Taylor Street, views of Curl Curl Lagoon and adjacent parkland will be affected along with a section of the foredunes along Curl Curl Beach.

From No. 16 Taylor Street, views of Curl Curl Beach, Curl Curl Lagoon and a section of the ocean will be affected.

From No. 14 Taylor Street, views of the ocean will be affected.

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:

From No. 20 Taylor Street, the main and most valuable views of Curl Curl Lagoon, adjacent parkland and the foredunes along Curl Curl Beach are obtained from the kitchen/living/dining room and a front balcony. The affected views are obtained over the side boundary and from sitting and standing positions.

From No. 16 Taylor Street, views of Curl Curl Beach and the ocean will be affected from a standing position on the front ground floor balcony. Views of Curl Curl Lagoon will be affected from the first floor living area from a standing position. All affected views are obtained over the front boundary of No. 16 Taylor Street and the side boundaries of Nos. 20 and 22a Taylor Street.

From No. 14 Taylor Street, views of the ocean will be affected from a standing position on the front balcony and from the front windows. All affected views are obtained over the front boundary of Nos. 14 and 16 Taylor Street and the side boundaries of Nos. 20 and 22a Taylor Street.

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:

No. 20 Taylor Street enjoys views of the ocean, North Head, district views of Manly, Harbord Diggers Club, Curl Curl Beach, the land water interface, district views of Curl Curl, Curl Curl Lagoon, adjacent parkland and district views of North Curl Curl and suburbs to the south west and west. The proportion of the total views that will be impacted by the proposal (being Curl Curl Lagoon, adjacent parkland and a section of the foredunes along Curl Curl Beach) is relatively small and these affected views are obtained over a side boundary. Overall, the impact on No. 20 Taylor Street is considered to be minor to moderate.

No. 16 Taylor Street enjoys views of the ocean, North Head, district views of Manly, Harbord Diggers Club, Curl Curl Beach, the land water interface, district views of Curl Curl, Curl Curl Lagoon, adjacent parkland and district views of suburbs to the south west. The proportion of the total views that will be impacted by the proposal (being Curl Curl Beach, Curl Curl Lagoon and a section of the ocean) is relatively small and these affected views are obtained over front and side boundaries. Overall, the impact on No. 16 Taylor Street is minor.

No. 14 Taylor Street enjoys views of the ocean, North Head, district views of Manly, Harbord Diggers Club, Curl Curl Beach, the land water interface, district views of Curl Curl, Curl Curl Lagoon, adjacent parkland and district views of suburbs to the south west. The proportion of the total views that will be impacted by the proposal (being a section of the ocean) is relatively small and these affected views are obtained over front and side boundaries. Overall, the impact on No. 14 Taylor Street is minor.

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 proposal complies with the 8.5m height limit (at a maximum height of 8.435m) and in this particular

case, the maximum height is the key control in relation to preserving views for all affected properties.

The submissions raised concerns in relation to the non-compliances with the side boundary envelopes on the northern and southern elevations. Enforcing full compliance with the side boundary envelopes would not change the amount of views lost or retained, given that the height of the proposal is the critical element for the preservation of views in this particular case. While the proposal has other technical non-compliances, such as the front and rear setbacks, the site is relatively small and the addition is built within the existing footprint of the existing dwelling. This is reasonable in the circumstances and the rear setback, having the greatest level of non-compliance, has the least impact on view loss as the rear boundary is to the east and most views are obtained westwards of the subject site.

Overall, given the compliance with the height control and the relatively small proportions of total views that will be affected from the nearby properties, the proposal is reasonable and will achieve a reasonable sharing of views.

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

Comment:

The proposal is a reasonable solution, that includes adequate articulation, within the urban environment.

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

Comment:

No canopy trees will be impacted by this proposal.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2015/1150 for Alterations and additions to a dwelling house on land at Lot 2 DP 881047, 22 A Taylor Street, NORTH CURL CURL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
1 of 5 Revision A	20-10-2015	AJ Lewis Architectural Design
2 of 5 Revision A	20-10-2015	AJ Lewis Architectural Design
3 of 5 Revision A	20-10-2015	AJ Lewis Architectural Design
4 of 5 Revision A	20-10-2015	AJ Lewis Architectural Design

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

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

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

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

2. **No Approval for a Secondary Dwelling/Granny Flat**

This consent is for additions to a single dwelling house only and does not involve the use of the property for a secondary dwelling/granny flat.

Reason: To ensure compliance with WLEP. (DACPLB04)

3. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative Requirement (DACPLB09)

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20

persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

(h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

Note: Systems can be registered at www.warringah.nsw.gov.au

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Councils Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

Reason: To ensure adequate protection of Councils infrastructure.

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

6. Compliance with Standards

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

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

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

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

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**

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

7. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

8. Sewer / Water Quickcheck

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

Please refer to the website www.sydneywater.com.au for:

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **Maintenance of Road Reserve**

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

Reason: Public Safety. (DACENE09)

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

10. **Stormwater Disposal**

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

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

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

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

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

(c) National Plumbing and Drainage Code.

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

ATTACHMENT A

Notification Plan	Title	Date
 2015/351957	plan Notification	19/11/2015

ATTACHMENT B

Notification Document	Title	Date
 2015/363295	Notification map	08/12/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/352059	plans master set	19/11/2015
 2015/351957	plan Notification	19/11/2015
 2015/351964	statement of environmental effects	19/11/2015
 2015/351968	report Basix Certificate	19/11/2015
 2015/352050	plan Stormwater Concept	19/11/2015
 DA2015/1150	22A Taylor Street NORTH CURL CURL NSW 2099 - Development Application - Alterations and Additions	24/11/2015
 2015/348668	DA Acknowledgement Letter - Marilyn Anna Goff	24/11/2015
 2015/351950	Plan survey	26/11/2015
 2015/351942	development application	26/11/2015
 2015/351946	applicant details	26/11/2015
 2015/351970	report geotechnical	26/11/2015
 2015/351974	report shadows	26/11/2015
 2015/352055	plans external	26/11/2015
 2015/359156	File Cover	03/12/2015
 2015/359165	Referral to AUSGRID - SEPP - Infrastructure 2007	03/12/2015
 2015/363293	Notification letter 6	08/12/2015
 2015/363295	Notification map	08/12/2015
 2015/365496	Development Engineering Referral Response	09/12/2015
 2015/389226	Request for Photographs to be withdrawn from Website	30/12/2015
 2016/000072	Online Submission - Tye	03/01/2016
 2016/000281	Report - Statement of Environmental Effects	04/01/2016
 2016/006352	Online Submission - Prictor	10/01/2016
 2016/009530	Online Submission - McArthur	13/01/2016
 2016/010957	Online Submission - Hoffmann	13/01/2016
 2016/013234	Online Submission - Hoffmann	14/01/2016
 2016/013243	Online Submission - Goff	14/01/2016
 2016/016110	additional info - notice Cannot see submission on Web - Hoffmann	15/01/2016
 2016/017882	Submission - Mullins	20/01/2016
 2016/019157	Submission Acknowledgement Letter - Andrew Shane Hoffmann & Catherine Rosemary Hoffmann - SA2016/013234	21/01/2016
 2016/019162	Submission Acknowledgement Letter - Margaret Ann Mullins - SA2016/017882	21/01/2016
 2016/069741	Assessment Report	04/03/2016

PANEL PLANS

No plans titled 'ADP Panel Plans' found in TRIM.