

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2016/0751
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<b>Responsible Officer:</b>	Mitchell Drake
<b>Land to be developed (Address):</b>	Lot 90 DP 6143, 55 Headland Road NORTH CURL CURL NSW 2099
<b>Proposed Development:</b>	Demolition works, construction of a dwelling house and swimming pool
<b>Zoning:</b>	LEP - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Application Determination Panel
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Murray Glenn Zimmer Deborah Claire A'Hara
<b>Applicant:</b>	Deborah Claire A'Hara

<b>Application lodged:</b>	25/07/2016
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	08/08/2016 to 23/08/2016
<b>Advertised:</b>	Not Advertised, in accordance with A.7 of WDCP
<b>Submissions:</b>	5
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 710,000.00
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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 - B3 Side Boundary Envelope  
 Warringah Development Control Plan - Rear Boundary Exceptions - R2  
 Warringah Development Control Plan - D6 Access to Sunlight  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D9 Building Bulk

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 90 DP 6143 , 55 Headland Road NORTH CURL CURL NSW 2099
<b>Detailed Site Description:</b>	The subject site is legally known as Lot 90, DP 6143, and commonly referred to as 55 Headland Road North Curl Curl. The site is generally regular in shape with an average site depth of 45.26m and a site width of 10.06m equating to an overall site area of 466.2sqm. The site features a slope of 8% from north to south. The site is currently occupied by a single dwelling with an attached garage and landscaping. Pedestrian and vehicle access is from Headland Road at the site frontage.

Map:



## SITE HISTORY

### Site History

A review of Council records indicates that there are no prior works or applications relevant to the subject proposal.

### Subject Application

- The subject application was lodged with Council 25/07/2016.

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- The applicant was requested to withdraw due to Development Engineering concerns on 23/07/2016,
- In consultation with Council, the applicant elected to proceed with the assessment on 29/08/2016
- Height Poles were erected on site on 27/09/2016,
- Amended architectural plans were lodged on 05/10/2016,

There is no other application history relevant to the assessment of the proposal.

## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks approval for the following works:

- Demolition of the existing structures and the construction of a new dwelling,

### Ground Floor

- New entry, laundry, store, internal stair access to upper level, guest bedroom, bathroom, two bedrooms, master bedroom with en suite & robe, external courtyard and lower outdoor deck.
- New double garage with extended driveway to provide access to the new car spaces.
- New in ground swimming pool and associated landscaping.

### First Floor

- Kitchen, dining and pantry, WC, front living zone and living room, front deck, rear living zone and outdoor balcony

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(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)	<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</p>

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Section 79C 'Matters for Consideration'	Comments
	<p>clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the 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 5 submission/s from:

Name:	Address:
Gavin Thomas Jones	57 Headland Road NORTH CURL CURL NSW 2099
Mr Timothy Kendall Fox	44 Austin Avenue NORTH CURL CURL NSW 2099
Mr Roy Johannes Putaansuu Leanne Robinson	46 Headland Road NORTH CURL CURL NSW 2099
Withheld	NORTH CURL CURL NSW 2099
Ms Susan Frances McAleer	c/- Gartner Trovato Architects PO Box 1122 MONA VALE NSW 1660

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

- ***View sharing impacts***
- ***Solar access impacts***
- ***Privacy impacts***
- ***Rear building setback***
- ***Building height***
- ***Non-compliant side boundary envelopes***
- ***Building is in excess of 2 storeys in height***
- ***Overall bulk and scale***
- ***Pool coping height***
- ***Stormwater disposal***
- ***External lighting***
- ***Retaining wall structural integrity***

The matters raised within the submissions are addressed as follows:

- ***The submissions raise concerns with regards to view sharing impacts***

### Comment:

A full assessment of view sharing impacts against the Planning Principle outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, has been applied to the proposal. In summary, a review of both the original and amended plans provided by the applicant, together with multiple site visits and the erection of height poles indicates that the proposal is consistent with the Planning Principle subject to conditions of consent.

The concerns raised with regard to view sharing have been adequately addressed by the amendments to the development and the recommended conditions of consent.

- ***The submissions raise concerns with regards to impacts upon Solar Access.***

### Comment:



The proposal has been assessed against and found to be consistent with the requirements of Clause D6 Access to Sunlight. In summary the proposal is satisfactory in this regard and thus, the objection carries no determining weight.

- ***The submissions raise concerns with regards to impacts upon privacy of adjoining dwellings.***

Comment:

The proposal has been assessed against the requirements of Clause D8 Privacy. In summary the proposal has been found to be satisfactory subject to conditions of consent. The concerns raised with regard to privacy have been adequately addressed by the recommended conditions of consent.

- ***The submissions raise concerns with regards to the extending of the proposed dwelling past the rear setback of adjoining and nearby dwellings.***

Comment:

The proposal complies with the numerical and merit based controls and requirements of the rear setback and the landscape open space controls of the Warringah Development Control Plan. The objection carries no determining weight.

- ***The submissions raise concerns with regards to the overall building height.***

Comment:

The proposal complies with the 8.5m height control. Additionally, the proposal has been assessed against the controls contained within Clause D6 Access to Sunlight and Clause D7 Views, contained within the Warringah Development Control Plan. The proposal has been shown to be consistent with these objectives and therefore the objection carries no determining weight.

- ***The submissions raise concerns with regards to the non-compliant side boundary envelopes on both the eastern and western elevations***

Comment:

>The proposal has been assessed against the relevant numerical controls and the merit based objectives of the side boundary envelope Built Form Controls. A full assessment is contained within Clause B3 Side Boundary Envelope. In summary, the development design appropriately responds to site constraints, being the slope and the site width. The non-compliances have been assessed and found to be consistent with the underlying merit based objectives and thus, the non-compliant east and west envelopes are satisfactory.

- ***The submissions raise concerns with regards to the proposed number of storeys of the development.***

Comment:

The proposal complies with the overall height control of 8.5m. There are no relevant controls with regards to the number of storeys for a dwelling within this zone. The objection carries no determining weight.

- ***The submissions raise concerns with regards to the overall bulk and scale of the development.***

Comment:

The proposal has been assessed against the relevant numerical controls and the merit based objectives contained within the relevant clauses. The development has also been assessed against the objectives of the side boundary envelope controls with particular reference to non-compliant built form elements. A full assessment is contained

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within Clause B3 Side Boundary Envelope. In summary, the development has a consistent and appropriate bulk and scale for its location and shows consistency with existing built forms within the street specifically and the zone generally. The dwelling design appropriately responds to site constraints and is not unreasonable in this regard. The objection carries no determining weight.

- ***The submissions raise concerns with regards to the pool coping height resulting in privacy impacts.***

## Comment:

The pool coping will be 0.2m below existing ground level at the northern most point, (RL40.7). At the southern most end of the pool the ground level is currently RL40.00, thus the pool coping will be a maximum of 0.7m above ground level at the southern end. In this regard, a condition of consent is to be imposed requiring a 1.65m privacy screen is to be fitted for the entire length of the southern edge and for 2m measured from the southern edge of the pool coping along the eastern edge of the pool coping. A privacy screen will not be required along the remaining eastern edge as this coping is not a trafficable area. No unreasonable overlooking will result from this part of the coping.

The objection is adequately addressed by the condition.

- ***The submissions raise concerns with regards to stormwater disposal with particular reference to the eastern boundary adjacent to the existing garage.***

## Comment:

Councils Development Engineers have reviewed the application, including stormwater removal and management. The Development Engineers have no objection to the application subject to conditions of consent.

- ***The submissions raise concerns with regards to the structural integrity of the existing retaining wall on the eastern boundary adjacent to the existing carport.***

## Comment:

A condition of consent is to be imposed requiring the preparation of a dilapidation report. This condition will require the management of potential vibration or excavation issues that may affect adjacent land, including the retaining wall. Standard conditions include limitations on construction / excavation hours, noise and site management to ensure no unreasonable amenity impacts. The condition will adequately address the objectors concerns with regards to the integrity of the existing retaining wall.

- ***The submissions raise concerns with regards to the style of external lighting used for the development.***

## Comment:

This issue is more appropriately addressed during the Construction Certificate stage of the development. Notwithstanding, conditions of consent requiring the dwelling is consistent with all Australian Standards will ensure the development complies with the appropriate controls and policies. The objection is adequately addressed via the condition of consent.

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
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Internal Referral Body	Comments
Development Engineers	<p>The application was referred to Councils Development Engineers who made the following comments:</p> <p><i>"Development Engineers have reviewed the proposal and advise the proposal cannot be supported due to the following deficiencies in the stormwater drainage proposal.</i></p> <p><i>1.As the development site falls naturally away from street, stormwater drainage for the site must be designed in accordance with Council's Section 5.4, Properties Unable to Connect to a Council Stormwater Drainage System or Easement of Council's PL 850 Water : Water Management Policy. In this regard, no offsets/reductions to the calculated Onsite Stormwater Detention (OSD) volume are permitted where a level spreader system is proposed. The proposal to reduce the effective OSD volume by 5.5 cubic metres contravenes the above Policy and therefore is not acceptable to Council.</i></p> <p><i>2. There appears to be a conflict between the input parameters DRAINS computer model and details shown on the stormwater drainage plans. The hydraulics consultant is to check and verify the following:</i></p> <ul style="list-style-type: none"> <li><i>• Configuration of the OSD tank (12 sq m in DRAINS vs 4.4 sq m on plans)</i></li> <li><i>• Stage/surface area relationship in the DRAINS model to suit HED chamber characteristics</i></li> <li><i>• High level/overflow control (40.7m in DRAINS vs 40.40m on plans)</i></li> </ul> <p><i>Due to the above inconsistencies, the OSD tank will not operate as per the design intent.</i></p> <p><i>To address the above deficiencies the stormwater drainage proposal will need to be reviewed and re-designed.</i></p> <p><i>Not supported for approval due to lack of information to address:</i></p> <ul style="list-style-type: none"> <li><i>• Stormwater drainage for the development in accordance with clause C4 Stormwater of the DCP</i></li> </ul> <p><u>Note:</u> <i>Vehicle access was reviewed and was considered satisfactory using Council's standard Normal Low driveway profile."</i></p> <p>Additional information was received by Council on 26/09/2016. A further assessment dated 29/9/16 was provided by the Development Engineers as follows:</p> <p><i>"Development Engineers have reviewed the additional information submitted and raise no objection to the proposal subject to conditions."</i></p> <p>The outstanding issues have been addressed via the additional information and the recommended conditions of consent, and that the proposal is satisfactory in this regard.</p>



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. 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:

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

## Warringah Local Environment Plan 2011

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

## Principal Development Standards

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

## Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 6 Additional Local Provisions	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	6.54m	N/A	Yes
B3 Side Boundary Envelope	East 5m @ 45 Degrees	1.05m tapering to 0m over 4.6m	Refer to Clause B3 East Side Boundary Envelope Assessment	No
	West 5m @ 45 Degrees	0.86m tapering to 0m over 7.6m	Refer to Clause B3 West Side Boundary Envelope Assessment	No
B5 Side Boundary Setbacks	Ground Floor East 0.9m	1m	N/A	Yes
	Ground Floor West 0.9m	1.1 m min 2m max	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.59m	N/A	Yes
B9 Rear Boundary Setbacks (dwelling)	6m	13.6m	N/A	Yes

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B9 Rear Boundary Setbacks (Pool Coping)	6m	5m	Refer to Clause B9 Exception Assessment	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (181sqm)	40.1% (181.2sqm)	N/A	Yes

## Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Rear Boundary Exceptions - R2	Yes	Yes
Part C Siting Factors	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
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E10 Landslip Risk	Yes	Yes

## Detailed Assessment

### **B3 Side Boundary Envelope**

#### **NOTE:**

Whilst the breach of the eastern and western building envelopes may be considered under the provisions of the exception under Clause B3, due to the prominent position of the dwelling on the overlooking hillside of North Curl Curl, the concerns of neighbours and the 10.06m site width constraining the dwelling design, the proposal has been subject to assessment under the merit based controls.

#### Description of non-compliance

The proposed dwelling breaches the eastern side boundary envelope by a maximum of 1.05m tapering to 0m over a distance of 4.6m or 10% of the eastern side boundary.

#### **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:

It should be noted that on this elevation it is the eave only that does not comply with the envelope controls, the elevation does not breach the envelope control. The bulk and scale of the proposal is consistent with that in the street and particularly, the rear (southern) elevation. Dwellings within this section of the street are designed to enjoy the views to the south and the subject dwelling is consistent with this approach. In this regard, the dwelling when viewed from the south is consistent with the bulk and scale of nearby dwellings and does not visually dominate the locale. The proposal is consistent with the objective in this regard.

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

#### Comment:

The application has been assessed against the requirements for access to sunlight and found to be compliant. Further, the breach has a negligible impact upon light penetration between buildings. Strict compliance with the controls would not result in any significant increase in solar penetration and therefore the development is consistent with this objective.

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

#### Comment:

The site features a slope of 8% from north to south and has a 10.06m width. These two (2) elements are the most significant site constraints impacting on the proposal. In this regard, a breach of a maximum 1.05m is not significant and thus the proposal shows appropriate design responses and consideration for the topography and site constraints. The proposal is consistent with this objective.

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

circumstance.

## **Description of non-compliance**

The proposed dwelling breaches the western side boundary envelope by a maximum of 0.86m tapering to 0m over a distance of 7.6m or 16% of the western side boundary.

## **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:

It should be noted that on this elevation also, it is the eave that does not comply with

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

### Comment:

The application has been assessed against the requirements for access to sunlight and found to be compliant. The breach has a negligible impact upon light penetration between buildings. Further, the amendments to the plans allow for a 2m western side setback, providing adequate solar penetration. The proposal is consistent with the objective in this regard, subject to conditions of consent.

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

### Comment:

The minor nature of the breach indicates that the proposal now responds appropriately to the topography of the site. The proposal is consistent with this objective.

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

## **Rear Boundary Exceptions - R2**

The exception states that:

*"Exempt development, swimming pools and outbuildings that, in total, do not exceed 50% of the rear setback area, provided that the objectives of this provision are met"*

As the pool and associated coping occupies 21.6% of the rear setback area of the site and achieves, via conditions of consent, the relevant objectives of the clause, the coping and pool area is appropriate development under these circumstances.

## **D6 Access to Sunlight**

A review of the proposal, shadow diagrams and a site visit indicates that the dwelling does not

unreasonable overshadowing any public open space. At least 50% of the required area of private open space of the dwelling and at least 50% of the required area of private open space of adjoining dwellings receive greater than 3 hours of sunlight between 9am and 3pm on June 21. The proposal is satisfactory in regards to solar access.

## D7 Views

### Merit consideration

With regard to the consideration of view sharing, 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 site directly opposite the subject site to the north is 46 Headland Road. A view analysis from this property indicates that the views are panoramic with a mix of water, shoreline, headland and district views to the southwest.

The adjoining site to the west of the subject property is 57 Headland Road. A view analysis from this property to the ir

### **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:**

#### 46 Headland Road

The views are obtained across the front boundary from both standing and sitting positions within both the primary living areas and the open deck on the upper floor.

#### 57 Headland Road

The views are obtained across both side boundaries to the east and west and the rear boundary to the south in both standing and sitting positions from the upper deck and living areas of the dwelling.

### **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:**

### **46 Headland Road**

The site visit and photo montage indicates that whilst the bulk of the view is maintained, the impact upon views from this site includes the blocking of some district views with southern areas of Curl Curl, South Curl Curl Beach and elements of the headland also being impacted upon. It is noted that the partial blocking these elements when considered exclusively, do not in themselves result in unreasonable impacts. However, the blocking of these elements is in the center area of a panoramic view, thus when assessed holistically the combined impact is considered minor to moderate.

In response, the applicant has provided amended plans modifying both internal garage ceiling heights and now provides a roof pitch of 20 degrees, replacing the original 25 degree pitch on the building element at the site frontage that offends the view. This results in a reduction of overall ridge height of 0.5m (RL51.318 to RL50.815). The design shows adequate regard for the sharing of views and reduces the impact to being minor.

A condition of consent is to be imposed requiring the ridgeline of the proposed dwelling to be a maximum of RL50.815 on this forward element.

### **57 Headland Road**

The site visit and photo montage indicates that the view loss is negligible.

## **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:**

### **46 Headland Road**

It is noted that the built form elements non-compliant with the controls, being the side boundary envelopes on both boundary at the rear, southern areas of the dwelling, do not have an impact upon the views from 46 Headland Road. In this regard, the dwelling proposed is reasonable in its design.

### **57 Headland Road**

The height poles show the original heights for the proposed dwelling. Amended plans have been provided indicating that the stairway and deck area on the western elevation have been deleted due to privacy and building bulk concerns. This change results in an increased side setback by 0.97m to now be 2m and indirectly, a further reduction in any possible view sharing impacts from the dwelling at 57 Headland Road to the southwest. The dwelling proposed is reasonable in its design in this regard.

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

Comment:

The design is innovative, makes use of the site area and responds appropriately to the site constraints, particularly the site width of 10.06m. The application replaces a dated structure with a dwelling of modern design and construction, making appropriate use of the available site areas and thus showing consistency with *Section 5: Objects, of the EP and A Act* in that better use is made of the available resource being the subject site.

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

Comment:

There are no existing tree canopies impacted upon by the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979 and the *planning principle outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*.

**NOTE:**

The assessment whilst focusing on the two properties that are most impacted in terms of view sharing, has indicated via site visits and photographic evidence that the proposal is appropriate in terms of view sharing from all properties in the vicinity.

The proposal is satisfactory with regards to view sharing and accordingly, the proposal is supported in this particular circumstance.

## **D8 Privacy**

A site visit and review of the plans indicates the following with regard to privacy impacts upon adjoining dwellings:

Eastern Elevation

On the ground floor, eastern elevation, windows service a guest bedroom, bedroom 1, bedroom 2 and bathroom with a window servicing the master bedroom en suite. A door services the storeroom. A review of the window schedule indicates the en suite window (W8) and the bathroom (W11) are louvered and fixed translucent glazing, thereby mitigating any potential privacy issues from this area. Windows W9, W10 and W12 all service bedrooms which are low traffic areas. This factor together with their location on the ground floor, results in negligible privacy impacts from these areas. The doorway D04 is a solid door and will not result in privacy impacts due to its use as an entry and exist. It is not in a location that will impact upon the adjoining property, thus by virtue of its construction and location, the doorway is appropriate and retains adequate levels of privacy.

On the upper floor, eastern elevation, windows service the kitchen, dining room and living areas. The upper floor also features a deck area at the south which overlooks the eastern boundary across this side elevation. A review of the window openings and schedule indicates that the window servicing the kitchen is a highlight window and set back behind the kitchen bench areas. The window servicing the dining room (W24) is set back 0.5m, above a section of roof sheeting and is located midway along the side boundary.

The window servicing the dining room (W24) is within a living area and is a floor to ceiling window on the eastern side boundary and has the potential to result in privacy impacts for the adjoining dwelling. In this regard, a condition of consent is to be imposed requiring translucent glazing to be fitted up to a minimum height of 900mm when measured from upper finished floor level.

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The remaining windows in the living zone are also setback 1m either above roof sheeting (W23) or within the deck areas (W22) and do not result in unreasonable privacy impacts. The deck area will be reviewed under the southern elevation assessment.

## Western Elevation

On the ground floor western elevation, windows service entryways stairways and hallways. As these areas are pathways and not living spaces and they are on the ground floor, there will be no unreasonable privacy issues resulting from this area.

On the upper floor western elevation, windows service the stairway whilst, at the front section, this elevation features a deck with reading seat. The southern end of the elevation features the side of the deck area on the southern (rear) elevation.

The deck area at the northern end of this elevation is opposite two (2) windows within the adjoining dwelling. A condition of consent is to be imposed requiring a 1.65m privacy screen to be fitted to outer western edge of this deck area so as to maintain privacy to an appropriate level for the adjoining and subject sites. The deck area at the southern (rear) elevation will be reviewed under the southern elevation assessment.

## Southern Elevation

On the ground floor southern (rear) elevation the proposed dwelling features windows opening out onto the pool area and a louvered window servicing the en suite. due to location and distance from the properties to the south, this elevation will not result in unreasonable privacy impacts.

The upper floor southern (rear) elevation features a 6.9m x 3.2m covered outdoor balcony. Whilst this balcony does not have an unreasonable privacy impact on the dwellings to the south by virtue of the 13.65m rear boundary setback provided, the dwelling will result in overlooking of the private open spaces of the adjoining dwellings to the east and west

In this regard, a 1.65m privacy screen is to be fitted to the outer eastern edge of the deck to ensure the privacy of this adjoining dwelling is maintained. On the western elevation the deck is to be reduced in width by 0.97m when measured from the adjoining western elevation and be fitted with a 1.65m privacy screen to maintain privacy for the adjoining western dwelling, with particular reference to the upper balcony of this development. (Refer also to the assessment under Clause D9 Building Bulk)

## Pool Area

An assessment of the pool area indicates that the coping will be 0.2m below existing ground level at the northern most point, adjacent to the proposed dwelling (RL40.7). At the southern most end of the pool the ground level is currently RL40.00. The rear yard will be leveled at RL40.00, thus the pool coping will be a maximum of 0.7m above ground level at the southern end.

In this regard, a condition of consent is to be imposed requiring a 1.65m privacy screen is to be fitted for the entire length of the southern edge and for 2m measured from the southern edge of the pool coping along the eastern edge of the pool decking area. A privacy screen will not be required along the remaining eastern edge as this coping is not a trafficable area and no overlooking will result from this part of the coping.

## Rear Lawn Area

The proposal includes the leveling of the rear lawn area to be RL40.00 and a 0.6m retaining wall at the southern (rear) boundary. Referring to the survey provided the existing RL's at the rear boundary are in the southwest corner RL39.44 and in the south east corner RL39.39. This results in an elevation of the rear boundary ground level inconsistent with those on the adjoining sites and raises the rear yard by a minimum of 0.56m and a maximum of 0.61m. This in turn results in privacy concerns for the adjoining dwellings, with specific reference to the site to the

south. Therefore, a condition of consent is to be imposed requiring that the retaining wall be deleted from the plans and that the natural fall of the land at this section of the site to be maintained.

## Summary

The application has been assessed in accordance with the relevant controls pertaining to privacy impacts and found to be consistent with those controls via conditions of consent. The proposal as modified by the conditions now provides appropriate privacy for the subject and adjoining dwellings located within this well established residential area. The proposal is acceptable with regards to privacy.

## **D9 Building Bulk**

Site inspection and a review of the plans indicates that the rear deck area extends past the west elevation of the proposed dwelling by 0.97m. It is noted that amended plans have been provided indicating that the stairway on the western elevation have been deleted due to privacy and building bulk concerns. In this regard, the element of the rear upper deck area remaining 0.97m beyond the western elevation continues to contribute to building bulk due to its proximity to the adjoining dwelling.

A condition of consent is to be imposed requiring this remaining element of the rear deck to be deleted so as to provide an appropriate setback to the upper floor of the adjoining dwelling. This change results in an increased western side setback to 2m. The remaining elements of the proposed dwelling are reasonable in design with regards to building bulk. (Refer also to side boundary envelope assessment)

## **POLICY CONTROLS**

### **Warringah Section 94A Development Contribution Plan**

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 710,000		
<b>Contributions</b>	<b>Levy Rate</b>	<b>Payable</b>
Total Section 94A Levy	0.95%	\$ 6,745
Section 94A Planning and Administration	0.05%	\$ 355
Total	1%	\$ 7,100

## **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.

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2016/0751 for Demolition works, construction of a dwelling house and swimming pool on land at Lot 90 DP 6143, 55 Headland Road, 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
DA-01 Site Plan Issue B	29/09/2015	Archisol Architects
DA-04 Proposed Ground Floor Issue B	29/09/2016	Archisol Architects
DA-05 Proposed First Floor Issue B	29/09/2016	Archisol Architects
DA-06 Proposed Roof Plan Issue B	29/09/2016	Archisol Architects
DA-07 North & South Elevations Issue B	29/09/2016	Archisol Architects
DA-08 East Elevation Issue B	29/09/2016	Archisol Architects
DA-09 West Elevation Issue B	29/09/2016	Archisol Architects
DA-10 Site Cross Section A Issue B	29/09/2016	Archisol Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
D01 Stormwater Management Drainage Plan & Notes Rev A	July 2016	NB Consulting Engineers

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D02 First Floor Drainage Plan Rev A	July 2016	NB Consulting Engineers
D03 First Floor Drainage Plan Rev A	July 2016	NB Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-11 Building Materials & Colours Issue B	29/09/2016	Archisol Architects
DA-14 Windows Schedule 1 Issue B	29/09/2016	Archisol Architects
DA-15 Windows Schedule 2 Issue B	29/09/2016	Archisol Architects
DA-16 Windows Schedule 3 Issue B	29/09/2016	Archisol Architects
DA-17 Windows Schedule 4 Issue B	29/09/2016	Archisol Architects
DA-18 Door Schedule Issue B	29/09/2016	Archisol Architects
Preliminary Geotechnical Report	23/06/2016	Crozier Geotechnical Consultants

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

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01 Landscape Plan Issue A	24/06/2016	Podology
DA02 Planting Plan Issue A	24/06/2016	Podology
DA03 Planting Schedule & Imagery Issue A	24/06/2016	Podology
DA04 Materials Schedule Issue A	24/06/2016	Podology
DA05 Elevations Issue A	24/06/2016	Podology
DA06 Softscape Details Issue A	24/06/2016	Podology

<b>Waste Management Plan</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-02 Demolition Plan Issue B	29/09/2016	Archisol Architects
DA-03 Sediment Control Issue B	29/09/2016	Archisol Architects
Waste Management Plan	July 2016	Murray & Deborah Zimmer

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. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:



## Amendment to Deck

The deck on the upper floor southern elevation adjacent to the living zone as shown on the approved plans is to be reduced in width by 0.97m at the western elevation. The deck is to provide a minimum 2m wide western side boundary setback.

## Deletion of Retaining Wall

The proposed 0.6m high retaining wall on the southern boundary of the subject site is to be deleted from the approved plans. The ground level of the site at this boundary is to remain as existing.

## Fitting of Translucent Glazing

The window servicing the dining room on the upper floor eastern elevation is to be fitted with translucent glazing to a maximum height of 900mm when measured from upper finished level.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts in accordance with WLEP2011 and WDCP. (DACPLB02)

### **3. Prescribed Conditions**

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

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

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

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

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

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

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

If arrangements for doing the residential building work are changed while the work is in

progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

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

Reason: Legislative Requirement (DACPLB09)

#### 4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

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

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

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

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

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

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

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

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

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

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

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

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

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in 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. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 710,000.00		
<b>Contributions</b>	<b>Levy</b>	<b>Payable</b>

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	Rate	
Total Section 94A Levy	0.95%	\$ 6,745.00
Section 94A Planning and Administration	0.05%	\$ 355.00
Total	1%	\$ 7,100.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

## 6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

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

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Northern Beaches Consulting Engineers, drawing number 160545 D01 to D03, revision C dated 24 August 2016.

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

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

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

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

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

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

## 9. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

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

Reason: To ensure suitable vehicular access to private property. (DACENC13)

## 10. **Compliance with Standards**

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

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

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

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

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)



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

**11. External Finishes to Roof**

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

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

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

**12. Modification Roof Form**

The proposed roof design shall be modified as follows:

(a) The building element at the northern end of the proposed dwelling housing the garage and entry on the ground floor and living zone 2 and deck on the upper floor is to have a ridge line with a maximum Reduced Level (RL) of 50.815.

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

Reason: In order to maintain a cohesive streetscape, improve views, and consistency with the provisions of WLEP. (DACPLC05)

**13. Privacy Screens**

The following privacy screens are to be provided:

- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the deck located off Living Zone 2 as shown on the approved plans.
- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the deck located off Living Zone as shown on the approved plans.
- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost eastern edge of the deck located off Living Zone as shown on the approved plans.
- A 1.65 metre privacy screen (measured from finished pool coping level) is to be erected for the entire length of the outermost southern edge of the pool coping and for 2m of the eastern edge of the pool coping when measured from the south eastern corner as shown on the approved plans.

All privacy screens shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property. (DACPLC06)

14. **Sewer / Water Quickcheck**

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

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

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

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

15. **Dilapidation survey**

A photographic survey of adjoining properties within 20m of the excavation perimeter detailing the physical condition of those properties, both internally and externally, including

such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible).

Reason: Proper management of records ( (DACPLCPCC1)

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

Any person or contractor undertaking works on public land must take out Public Risk

Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

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

### 17. **Vehicle Crossings**

The provision of one vehicle crossing three metres wide in accordance with Warringah Council Drawing No A4-3330/3 Normal Low and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

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

### 18. **Layback Construction**

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

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

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

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

Reason: Public Safety. (DACENE09)

### 20. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

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

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

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

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

prior to the issue of any interim / final Occupation Certificate.

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

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

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

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

Reason: To identify encumbrances on land. (DACENF02)

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

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

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

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

24. **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)

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

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

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.  
(DACENF10)

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

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

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

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.  
(DACENF12)

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

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

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

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

Reason: To identify encumbrances on land. (DACENF14)

28. **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

# NORTHERN BEACHES COUNCIL

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)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

**Signed**

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**Rodney Piggott, Development Assessment Manager**

The application is determined under the delegated authority of:


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**Rodney Piggott, Development Assessment Manager**




# NORTHERN BEACHES COUNCIL

## ATTACHMENT A

Notification Plan	Title	Date
 2016/257384	Plans Notification	20/07/2016

## ATTACHMENT B



















Notification Document	Title	Date
 2016/262688	Notification Map	08/08/2016

# NORTHERN BEACHES COUNCIL

## ATTACHMENT C

Reference Number	Document	Date
 2016/257387	Plan Survey	14/12/2015
 2016/257394	Easement Letter	14/06/2016
 2016/257408	Plans Landscape Architectural Package - with Internal layout	24/06/2016
 2016/257399	Report - Preliminary Landslip Risk Assessment	04/07/2016
 2016/257398	Report Waste Management Plan	07/07/2016
 2016/257401	Thermal Comfort and BASIX Assessment	14/07/2016
 2016/257390	Report Statement of Environmental Effects	18/07/2016
 2016/257384	Plans Notification	20/07/2016
 2016/257484	Plans Master Set	21/07/2016
 DA2016/0751	55 Headland Road NORTH CURL CURL NSW 2099 - Development Application - New	25/07/2016
 2016/246932	DA Acknowledgement Letter - Murray Glenn Zimmer - Deborah Claire A'Hara	25/07/2016
 2016/257224	Development Application Form	02/08/2016
 2016/257227	Applicant Details & Cost Summary Report	02/08/2016
 2016/257402	Plans Stormwater	03/08/2016
 2016/257419	Certification of shadow diagrams and plans	03/08/2016
 2016/257450	Plans External Layout	03/08/2016
 2016/262681	Notification Letter - 11	08/08/2016
 2016/262688	Notification Map	08/08/2016
 2016/270806	Development Engineering Referral Response	16/08/2016
 2016/274784	Request for Withdrawal of Development Application - Deborah Claire A'Hara	19/08/2016
 2016/276425	Online Submission - Jones	20/08/2016
 2016/278190	Submission - Fox	23/08/2016
 2016/278883	Submission - Putaansuu and Robinson	24/08/2016
 2016/278921	Submission - details withheld	24/08/2016
 2016/280299	Submission Acknowledgement Letter - Darryl John Mills - SA2016/278921	25/08/2016
 2016/280301	Submission Acknowledgement Letter - Roy Johannes Putaansuu & Leanne Robinson - SA2016/278883	25/08/2016
 2016/281515	Withdrawal Memo	26/08/2016
 2016/283074	FW: DA2016/0751 - Rescind Withdrawal & Clarification	26/08/2016
 2016/286557	Submission - McAleer	30/08/2016
 2016/286426	Request for response - 44 Austin Avenue North Curl Curl	30/08/2016

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	2016/289597	Requesting confirmation - DA2016/0751 - McAleer	02/09/2016
	2016/298084	Height Pole Location Plans	06/09/2016
	2016/298216	Height Pole Request Letter	06/09/2016
	2016/321206	Confirmation - Height Poles erected - 55 Headland Road North Curl Curl	26/09/2016
	2016/322312	Development Engineering Referral Response	28/09/2016
	2016/325136	Follow up from meeting - 55 Headland Road North Curl Curl	30/09/2016
	2016/328853	Plans final amended	05/10/2016
	2016/329037	working plans	05/10/2016
	2016/329118	Delete - duplicate	05/10/2016
	2016/332820	Subject Site Photos	10/10/2016
	2016/332826	Photos 46 Headland Road	10/10/2016
	2016/332837	Photos Rear 44 Austin Avenue	10/10/2016
	2016/332847	Photos 57 Headland Road	10/10/2016
	2016/333087	View analysis Photo 46 Headland Road	10/10/2016
	2016/333090	View Analysis photo 57 Headland Road	10/10/2016
	2016/342093	DA-FINAL ISSUE B-DA-08-EAST ELEVATION to correct window numbering	18/10/2016
	2016/344191	Assessment Report	19/10/2016
	2016/344514	ADP Plans	20/10/2016