

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Banksia Room Northern Beaches Council Dee Why

WEDNESDAY 1 NOVEMBER 2017



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 1 November 2017
in the Banksia Room Northern Beaches Council Dee Why**

1.0	APOLOGIES & DECLARATIONS OF PECUNIARY INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Development Determination Panel held 5 October 2017	
3.0	DEVELOPMENT DETERMINATION PANEL REPORTS	2
3.1	4 Phyllis Street North Curl Curl - Demolition works and construction of a dwelling house and secondary dwelling	2
3.2	107 Headland Road North Curl Curl - Demolition works and construction of a dwelling house and secondary dwelling	41

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 5 OCTOBER 2017

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 5 October 2017 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 **4 PHYLLIS STREET NORTH CURL CURL - DEMOLITION
WORKS AND CONSTRUCTION OF A DWELLING HOUSE AND
SECONDARY DWELLING**

REPORTING MANAGER **ROD PIGGOTT**

TRIM FILE REF **2017/418059**

ATTACHMENTS **1** [↓](#) **Assessment Report**
2 [↓](#) **Site and Elevation Plans**

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant approval to Development Consent to DA2017/0765 for Demolition works, construction of a dwelling house and secondary dwelling on land at Lot 19 DP 16602, 4 Phyllis Street North Curl subject to the conditions outlined in the report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 01 November 2017

4 Phyllis Street North Curl curl - Demolition works, construction of a dwelling house and secondary dwelling.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0765
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 19 DP 16602, 4 Phyllis Street NORTH CURL CURL NSW 2099
Proposed Development:	Demolition works, construction of a dwelling house and secondary dwelling.
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Julian Vrbancich Susan Mary Vrbancich
Applicant:	Wisden Architects
Application lodged:	03/08/2017
Integrated Development:	No
Concurrence Required:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	03/10/2017 to 19/10/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions Received:	4
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,162,500.00



ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks

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

Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 19 DP 16602 , 4 Phyllis Street NORTH CURL CURL NSW 2099
Detailed Site Description:	<p>The subject site consists of a single allotment located on the northern side of Phyllis Street and the western side of Phyllis Lane.</p> <p>The site is regular in shape with a frontage of 11.27m along Phyllis Street, 35.3m along Phyllis Lane and a depth of 36.83m. The site has a surveyed area of 461.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two storey dwelling house.</p> <p>The site has a cross fall from west to the east of approximately 2.5m.</p> <p>The site enjoys ocean views to the east.</p> <p>Detailed Description of Adjoining/Surrounding</p>

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	<p>Development</p> <p>Adjoining and surrounding development is characterised by predominantly two storey dwelling houses in landscaped settings.</p>
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Map:



SITE HISTORY

Development Application No. 2017/0127

This application for demolition of the existing dwelling house and construction of a new dwelling house was lodged with Council on 20 February 2017.

Following a preliminary assessment of the application Council wrote to the applicant outlining a number of issues that would not allow Council to support the application in its current form. The issues included building height non compliance, view loss and non compliance with the landscaped open space control.

The applicant subsequently withdrew the application on 7 July 2017.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition of the existing dwelling house and construction of a new two storey dwelling house and secondary dwelling.

Specifically the works involve:

Lower Ground Floor:

- Secondary dwelling;

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- Double garage; and
- Lift and stairwell access.

Ground Floor:

- 2 x bedrooms
- Terrace
- Entry hall
- Rumpus room
- Laundry; and
- Cloak room.

First Floor:

- Kitchen/Living/Dining room;
- Butlers pantry;
- Powder room;
- Main bedroom, walk-in robe and ensuite;
- Balcony; and
- Library

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><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.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore</p>

Section 79C 'Matters for Consideration'	Comments
	<p>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&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&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&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&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&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 'Matters for Consideration'	Comments
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 4 submission/s from:

Name:	Address:
Daryl Johnston	4 Phyllis Lane NORTH CURL CURL NSW 2099
Mr Jeremy James Coleman	1 Phyllis Street NORTH CURL CURL NSW 2099
Mrs Pamela Ward	4 Phyllis Lane NORTH CURL CURL NSW 2099
Ms Laurence Gordon	14 Ian Avenue NORTH CURL CURL NSW 2099

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

- **Front Boundary Setback**
- **Side Boundary Setback**
- **View Loss**
- **Construction Access**

The matters raised within the submissions are addressed as follows:

Front Boundary Setback

Concern is raised that the proposed front setback is non compliant with the WDCP 2011, is out of character with the street and will cause view loss.

Comment:

This matter has been addressed in detail elsewhere within this report (refer to Clause B7 Front Boundary Setbacks under the WDCP 2011 section of this report).

In summary, the assessment of this application has found the proposed setback to Phyllis Lane to satisfy the underlying objectives of Clause B7 and the variation is supported in this instance.



The setback proposed to the first floor from Phyllis Street is considered to be unreasonable and renders the proposal inconsistent with the objectives of Clause B7.

A condition has been included in the recommendation of this report requiring the first floor element proposed within the front setback area to be reduced to only extend 1m from the southern most projection of the primary building walls. This will ensure a sense of openness is maintained across the front setback area, maintain the visual quality of the Phyllis Street streetscape and achieve reasonable view sharing.

This matter, as conditioned, does not warrant refusal of the application.

Side Boundary Setback

Concern is raised that the proposal does not comply with the side boundary setback control under WDCP 2011.

Comment:

Clause B5 Side Boundary Setbacks under WDCP 2011 requires development to be setback a minimum 0.9m from a side boundary. The proposal complies with the minimum numerical requirement and the assessment of this application has found the development to be consistent with the underlying objectives of Clause B5.

This matter does not warrant refusal of the application.

View Loss

Concern is raised that the proposal will result in a loss of views from No. 12 and No. 14 Ian Avenue and No. 1 Phyllis Street.

Comment:

This matter is addressed elsewhere in this report (refer to Clause D7 - 'Views' under Warringah Development Control Plan).

In summary, the assessment of this application has found that the development achieves consistency with the planning principles outlined within the Land and Environment Court Case of *'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140'* and that the extent of qualitative impact upon view sharing is considered to be moderate and the proposal is reasonable in this instance.

Therefore, this matter does not warrant the refusal of the application.

Construction Access

Concerns are raised that Phyllis Lane will be obstructed during the demolition and construction phase given its narrow width and length.

Comment:

Phyllis Lane extends in a northerly direction off Phyllis Street and currently serves 3 dwelling houses. The

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laneway is narrow and is not suitable for construction access as proposed on the drawings submitted with the application.

In this regard, a condition has been included in the recommendation of this report requiring the preparation and implementation of a Construction Management Plan. The plan is to make provisions for all access during demolition and construction to be provided off Phyllis Street to ensure access to properties along Phyllis Lane is maintained at all times.

This matter, as conditioned, does not warrant refusal of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Development Engineers	The submitted stormwater management is acceptable. No Development Engineering objection is raised to the proposed development subject to conditions.
Landscape Officer	No objections subject to conditions.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

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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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

Comment:

The proposed use is defined under WLEP 2011 as:

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is	

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permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	Consistent. The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	Consistent. The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	Complies The proposal involves the construction of a principal dwelling and secondary dwelling on one parcel of land.
(3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	Complies The proposed secondary dwelling has a total floor area of 55.8m ² .
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or	Complies

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(ii) the site area is at least 450 square metres.	
(b) parking if no additional parking is to be provided on the site.	

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	Consistent. This application does not propose any subdivision of the existing allotment.

Conclusion

The proposal satisfies the requirements of the SEPP and is therefore supported in this instance.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.796648M).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	40	41

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.

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

Comment:

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

Warringah Local Environment Plan 2011

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

Principal Development Standards

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

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.10 Development for the purposes of secondary dwellings in Zones R2 and R3	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.5m	N/A	Yes
B3 Side Boundary Envelope	North - 5m & 45 degrees	Within envelope	N/A	Yes
	East - 5m & 45 degrees	Within envelope	N/A	Yes
	West - 5m & 45degrees	Within envelope	N/A	Yes

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B5 Side Boundary Setbacks	North - 0.9m	0.9m to 1.3m	N/A	Yes
	East - 0.9m	0.9m	N/A	Yes
	West - 0.9m	0.9m	N/A	Yes
B7 Front Boundary Setbacks	Phyllis Street - 6.5m	3.8m to 6.5m	41.5%	No
	Phyllis Lane - 3.5m	0.9m to 3m	74.28%	No
B9 Rear Boundary Setbacks	6m	N/A - corner allotment	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	33.91% (156.56m ²)	15% (27.68m ²)	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
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

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Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The control requires development to be setback a minimum of 6.5m from the primary street frontage (Phyllis Street) and a minimum 3.5m from a secondary street frontage (Phyllis Lane).

The proposed development is setback between 3.8m and 6.6m from Phyllis Street and between 0.9m to 3m from Phyllis Lane.

This represents a variation of up to 41.5% (2.7m) to Phyllis Street and up to 74.28% (2.6m) to Phyllis Lane.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The proposed development maintains the existing setback of 0.9m to the proposed eastern facing balconies and a further 3m to the primary building walls. This allows for a sufficient level of openness to be maintained and created along the Phyllis Lane street frontage.

The proposed first floor library intrudes into the front boundary setback area along Phyllis Street. The first floor is suspended above the ground floor below and is setback 3.8m from the front boundary. The encroachment of this element of the building into the front boundary setback area does not allow for a sense of openness to be created through the front boundary setback area along Phyllis Street.

Therefore a condition has been included in the recommendation of this report to ensure the library addition extends a maximum 1 metre from the southern most projection of the primary building walls. This will ensure a sense of openness is created across the front boundary of the site and, as discussed elsewhere within this report, reduce the impact on views.



The proposal, as conditioned, satisfies this objective.

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

Comment:

The front setback area along Phyllis Lane is dominated by buildings and/or car parking structures of dwellings that have a frontage to the laneway. The topography of the subject site and land to east allows for Phyllis Lane to be used as a service lane for those buildings located along the laneway. To this extent the sense of openness along this street frontage has been severely compromised by existing development.

The proposal maintains and increases the existing setback to Phyllis Lane and therefore the proposed setback to Phyllis Lane is considered to maintain the visual continuity and pattern of buildings and landscape elements. Further, areas of landscaping are able to be provided along the frontage to Phyllis Lane.

Development along Phyllis Street predominantly maintains the minimum front setback of 6.5m with the exception of the immediately adjoining development to the west of the subject site which contains a single storey garage. The car parking structure has been provided within the front setback presumably due to the limited ability for off street car parking to be provided elsewhere on site.

In this regard the visual continuity and pattern of buildings along Phyllis Street is of buildings that are predominantly setback 6.5m with front setback areas that are landscaped.

The proposed first floor library intrudes into the front boundary setback area along Phyllis Street. The first floor is suspended above the ground floor below and is setback 3.8m from the front boundary. The encroachment of this element of the building into the front boundary setback disrupts the visual continuity and pattern of buildings in the street and is not supported.

Therefore a condition has been included in the recommendation of this report to ensure the library addition extends a maximum 1 metre from the southern most projection of the primary building walls. This will ensure the visual continuity and pattern of buildings is maintained.

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

Comment:

As detailed throughout this Clause, the proposed first floor library intrudes into the front setback area along Phyllis Street. This element of the building is inconsistent with the predominant building setback in the street and therefore does not protect or enhance the visual quality of the Phyllis Street streetscape or nearby public spaces.

A condition has been included in the recommendation of this report to reduce the extent of the library encroachment into the front setback area which will effectively protect and enhance the visual quality of the streetscape and public spaces.



The proposal, as conditioned, satisfies this objective.

- *To achieve reasonable view sharing.*

Comment:

As detailed elsewhere within this report (refer to Clause D7 Views), the proposal, as conditioned, achieves a reasonable level of view sharing.

The proposal, as conditioned, satisfies this objective.

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 control requires a minimum of 40% of the total site area to be landscaped open space.

The proposed development provides 33.91% (156.56m²) of the total site area as landscaped open space which represents a variation of 15% (27.68m²).

Merit consideration

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

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

Comment:

The Landscape Plan submitted with the application (refer to Landscape Plan Issue B prepared by 3DL Landscape Consultants) indicates that the front and side setback areas will provide landscaping which will act to maintain and enhance the local character and streetscape and improve and soften the visual appearance of the development.

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

Comment:

The site has been altered over the residential history of the allotment. There are no threatened species, significant topographical features or vegetation identified on site.

The landscape plan indicates substantial landscape planting to be introduced to the site in

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particular within the front setback.

The planting is considered to be a significant improvement and an overall increase on the existing provision.

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

Comment:

Landscaped areas are generally confined to the front and side setback areas of the site. These areas are of a sufficient size to allow the establishment of low lying shrubs, medium high shrubs and canopy trees that, at a mature age, would be of a size and density to mitigate the height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

The development includes areas of significant landscaping located within the front and side boundary setbacks which, in-conjunction with the spatial separation provided between buildings will provide adequate privacy between buildings within this established residential area.

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

Comment:

The proposed development will provide adequate areas of opportunity for outdoor recreation for the dwelling occupants. The rear setback area is largely landscaped providing a turfed and landscaped private open space area for the use of dwelling occupants.

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

Comment:

The plans do not indicate any areas allocated at ground level specifically for clothes drying. However, it is considered sufficient area is available for service functions such as clothes drying.

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

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections to the proposed stormwater system subject to conditions included in the recommendation of this report.



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, subject to conditions, in this particular circumstance.

D7 Views

As a result of the public exhibition of the development application Council received a number of submissions raising view loss as a concern.

Submissions have been received from the following properties; No. 1 Phyllis Street, No 12 Ian Avenue, No 14 Ian Avenue.

It should be noted that Council officers have previously undertaken a view loss assessment, which included viewing height poles, from No. 2 Phyllis Street when assessing a previous application (DA2017/0127). The subject application has been submitted to address the view loss concerns raised previously by Council and proposes a height lower than previously proposed (0.43m reduction) across the rear section of the building footprint adjacent to the first floor living spaces of No. 2 Phyllis Street.

The impact on views from No. 2 Phyllis Street have been considered by the applicant in its documentation submitted with this application (refer to Drawing No.DA 10B prepared by Wisden Architects).

The assessment provided below takes into account the impact on views from the properties who have raised view loss as a concern in their submissions as well as the adjoining property to the west, No. 2 Phyllis Street and No. 3 Phyllis Street to the south.

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:

No. 12 Ian Avenue

The site at No. 12 Ian Avenue is currently under construction. A search of Council's records reveals that approval has been granted for a new dwelling house which is currently under construction. The nature of the views affected from this property would be partial ocean views to the east. The views would be filtered by existing vegetation and development located to the east of the site.

No 14 Ian Avenue

The nature of the views to be affected from this property are ocean views to the east filtered through existing development and power lines as shown below.



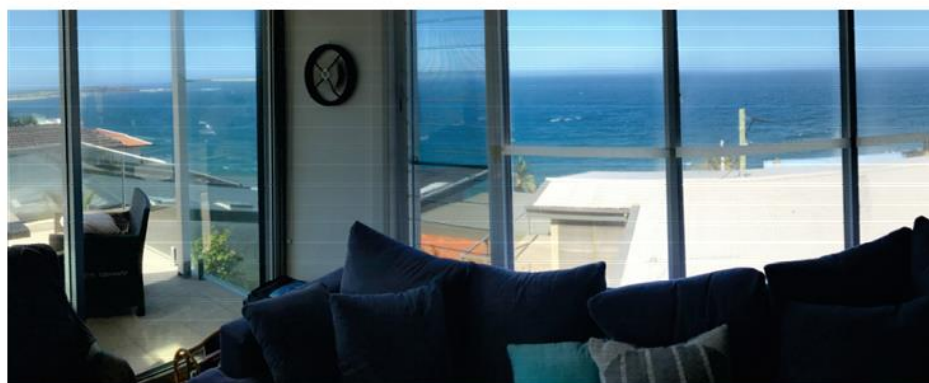
No. 1 Phyllis Street

The nature of the views affected from this property are of highly valued land and water interface views of Long Reef Beach, distant and close ocean views filtered through existing development as shown below.



No. 2 Phyllis Street

The nature of the views to be affected from this property are of ocean views in an east and north easterly direction as shown below.



No. 3 Phyllis Street

The nature of the views to be affected from this property are of land and water interface views of Long Reef Beach and distant ocean views as shown below. It should be noted that access to this property was unable to be obtained. The photo below is taken from the front yard of the property.



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:

No. 12 Ian Avenue

The views from this affected property are obtained over the front boundary from the ground floor bedrooms in standing position only and from the first floor kitchen/living/dining room in a sitting and standing position. It should be noted that the views obtained in a sitting position are of a lesser quality than those from a standing position.

No 14 Ian Avenue

The views from this affected property are obtained over the front boundary from what will be, when construction is completed, the ground floor living room in a standing position and from the first floor master bedroom and en-suite in a sitting and standing position. It should be noted that it is expected that views from a sitting position will be of a lesser quality than those obtained from a standing position.

No. 1 Phyllis Street

The views from this affected property are obtained over the front boundary from the first floor master bedroom in a sitting and standing position. It should be noted that the views obtained from



the sitting position are of a lesser quality than those obtained in the standing position.

No. 2 Phyllis Street

The views from this affected property are obtained over the side boundary from the first floor kitchen/living/dining room in a sitting and standing position.

No. 3 Phyllis Street

The views from this affected property are obtained over the front boundary from the first floor rumpus room and bedroom of the dwelling. Given the contextual relationship with the adjoining property which was inspected it is reasonably assumed that the views from this property to be affected will be in both the sitting and standing position. It should be noted that the views obtained from a sitting position would be of a lesser quality than those obtained from the standing position.

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. 12 Ian Avenue

No 12 Ian Avenue currently enjoys expansive views to the north, north-east and east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland and ocean views.

The dwelling occupants will continue to enjoy expansive and highly valued views to the north and north-east of Long Reef Beach (land and water interface), Long Reef Golf Course and Long Reef Headland. These views will not be impacted by the proposed development. The filtered ocean views currently enjoyed to the east of the site will, to a minor extent, be lost as a result of the proposed development.

Therefore the extent of the impact is considered to be negligible.

No 14 Ian Avenue

No 14 Ian Avenue currently enjoys, and will enjoy once construction is completed, expansive views to the north, north-east and east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland and ocean views.

The future dwelling occupants will continue to enjoy expansive and highly valued views to the

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north and north-east of Long Reef Beach (land and water interface), Long Reef Golf Course and Long Reef Headland. These views will not be impacted by the proposed development. The filtered ocean views currently enjoyed to the east of the site will, to a minor extent, be lost as a result of the proposed development.

Therefore the extent of the impact is considered to be negligible.

No. 1 Phyllis Street

No.1 Phyllis Street currently enjoys expansive views to the north, north east and east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland and ocean views to the east.

The dwelling occupants will continue to enjoy views to the north east and east of Long Reef Golf Course, Long Reef Headland and ocean views. The occupants will also continue to enjoy partial views of Long Reef Beach (land and water interface). The proposed development will result in a loss of northerly views of Long Reef Beach (land and water interface) and distant ocean views further north.

Therefore, given the partial loss of highly valued land and water interface views, the extent of the impact is considered to be moderate.

No. 2 Phyllis Street

No. 2 Phyllis Street currently enjoys expansive and in some part, uninterrupted, views to the north, north east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland and ocean views directly to the east over the ridge line of the existing dwelling on the subject site and development further to the east. The dwelling occupants also enjoy expansive views from a first floor north facing balcony area.

The dwelling occupants will continue to enjoy, predominantly in a standing position, views to the north and north east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland. The views obtained from the first floor balcony area will remain, unaffected by the proposed development as the southern most projection of the proposed building aligns with the southern building walls of this property.

Views obtained from a sitting position, over the side boundary, in north-east and easterly direction are expected to be lost as a result of the proposed development.

Therefore, given the loss of views from the living area of the dwelling in a sitting position, the extent of the impact is considered to be moderate.

No. 3 Phyllis Street

No. 3 Phyllis Street currently enjoys views to the north, north-east and east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland and ocean views.

The dwelling occupants will continue to enjoy views from the first floor of the dwelling to the north-



east and east of Long Reef Beach (land and water interface), Long Reef Golf Course, Long Reef Headland and ocean views. It is also expected that the proposed development will result in a new view corridor being opened up to the north by virtue of the 3m setback to the eastern most primary building walls which will allow for views to be obtained through the east facing open balcony structures of the proposed development. Partial views directly to the north of Long Reef Beach are expected to be lost as a result of the proposed development.

Therefore, given the minor loss of views to the north, retention of existing views to the north-east and east and the provision of a new view corridor to the north, the extent of the impact is considered to be 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:

The proposal maintains compliance with the Clause 4.3 Height of Buildings Development Standard under WLEP 2011 which permits a maximum height of 8.5m. The proposal also satisfies the underlying objectives and maintains compliance with the minimum requirements of Clause B1 Wall Height, Clause B3 Side Boundary Envelope, and Clause B5 Side Boundary Setbacks under WDCP 2011.

The development proposes a variations to the minimum requirements of Clause B7 Front Boundary Setbacks under WDCP 2011.

As detailed under the Clause B7 Front Boundary Setbacks section of this report, the encroachment of the first floor library area into the front boundary setback area along Phyllis Street causes a disruption of views and is considered to be unreasonable and unnecessary in this circumstance. To this extent a condition has been included in the recommendation of this report requiring the first floor library element of the building to be reduced and the encroachment into the front setback area minimised. This will allow for a further retention of views from those properties located to the west along Ian Avenue.

The proposal responds appropriately to the available views through the provision of appropriate view corridors, setbacks and building articulation to ensure highly valued views are retained and the impact on properties in terms of view loss is negligible to moderate.

Overall the proposal is considered appropriate for the site and, as conditioned, acceptable in this instance.



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

Comment:

The proposal represents an innovative and contemporary design consistent with that of recent nearby residential development.

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

Comment:

There are no existing canopy trees proposed to be removed as part of the 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

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 \$ 1,162,500		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 11,044
Section 94A Planning and Administration	0.05%	\$ 581
Total	1%	\$ 11,625

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 DA2017/0765 for Demolition works, construction of a dwelling house and secondary dwelling. on land at Lot 19 DP 16602, 4 Phyllis 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
DA 02a	Undated	Wisden Architects
DA 03a	Undated	Wisden Architects
DA 04a	Undated	Wisden Architects
DA 05a	Undated	Wisden Architects

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DA 06a	Undated	Wisden Architects
DA 07b	Undated	Wisden Architects
DA 08b	Undated	Wisden Architects
DA 09c	Undated	Wisden Architects
DA 10b	Undated	Wisden Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Landslip Risk Assessment for 4 Phylliss Street, North Curl Curl	6 March 2017	Crozier Geotechnical Consultants

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
(A)LP1-1 Landscape Plan Issue B	10/05/17	3DL Landscape Consultants
(A)LP1-2 Landscape Plan Issue B	10/05/17	3DL Landscape Consultants

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:

- The first floor library element is to be reduced to extend a maximum 1 metre from the southern most projection of the primary building walls.

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 upon surrounding land. (DACPLB02)

3. **Prescribed Conditions**

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



- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

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	
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Contribution based on a total development cost of \$ 1,162,500.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 11,043.75
Section 94A Planning and Administration	0.05%	\$ 581.25
Total	1%	\$ 11,625.00

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 \$10,000 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).

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 KD STORMWATER Pty Ltd., drawing number DG1120 dated 06/02/17.

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. **Waste Management Plan**

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

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

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

10. **Tree protection**

(a) Existing trees which must be retained

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

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

11. **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)

12. **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)

13. **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)

14. **Construction Management Plan**

A Construction Management Plan shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

The plan shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion, noise and dust in the area, with no access across public parks or reserves being allowed;
- (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (f) The proposed areas within the site to be used for the storage of excavated materials,

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- construction materials and waste containers during the construction period;
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
 - (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
 - (i) Proposed protection for Council and adjoining properties;
 - (j) The location and operation of any on site crane;
 - (k) Provisions for all demolition and construction access to be provided off Phyllis Street and measures to ensure access to and from Phyllis Lane is maintained at all times.

Reason: To ensure appropriate measures are in place during demolition and construction to minimise the impact on adjoining and nearby lands.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Public Liability Insurance - Works on Public Land

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Layback Construction

A layback 3.5 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)

17. 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)

18. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

19. Waste Management During Development

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

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

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

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

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features (DACLAEOG1)

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

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. **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

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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)

25. **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)

26. **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)

27. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

28. **Waste Management Confirmation**

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

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

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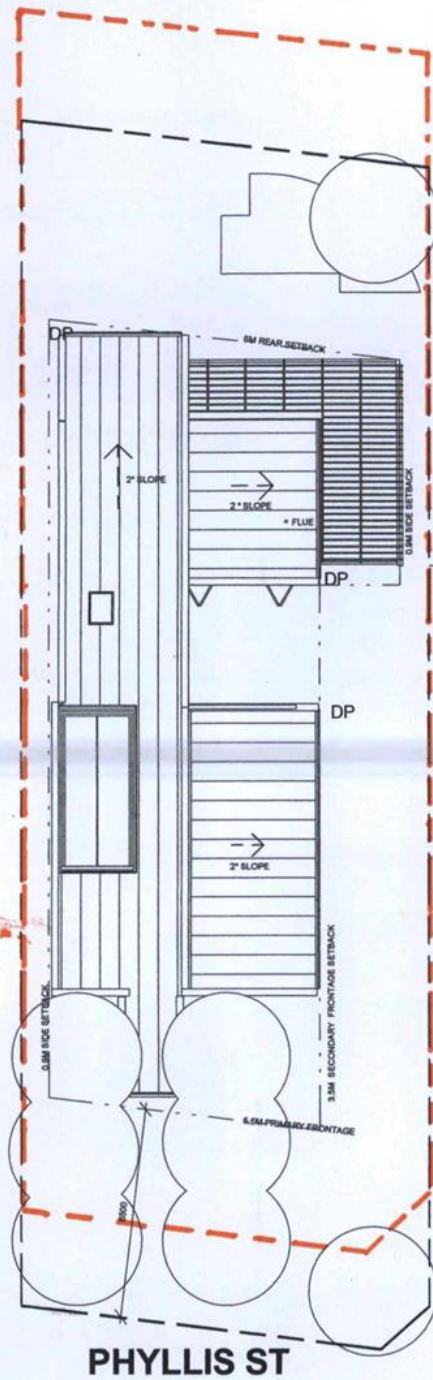
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wisden architects



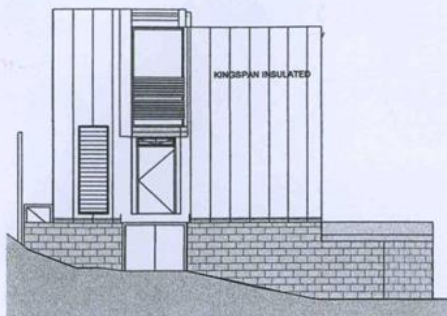
1 Site Plan
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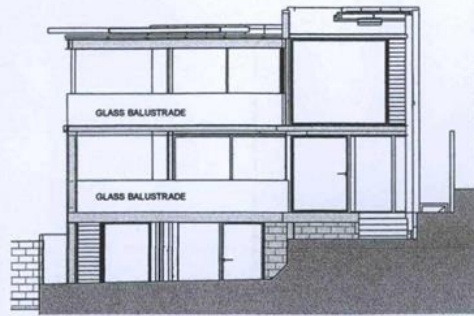
NOTIFICATION PLAN

01

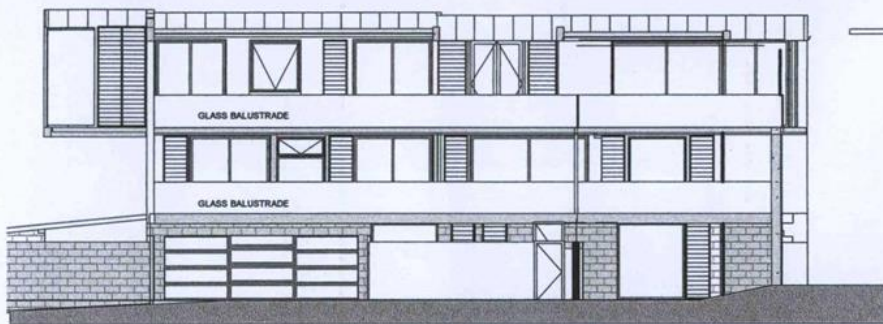
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PHYLLIS ST ELEVATION



NORTH ELEVATION



PHYLLIS LANE ELEVATION



WEST ELEVATION

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4 Phyllis St North Curl Curl

NOTIFICATION PLAN

01

ITEM 3.2	107 HEADLAND ROAD NORTH CURL CURL - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE AND SECONDARY DWELLING
REPORTING MANAGER	ROD PIGGOTT
TRIM FILE REF	2017/418098
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site and Elevation Plans

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2017/0610 for Demolition and construction of a dwelling house on land at Lot 11 DP 10571, 107 Headland Road North Curl subject to the conditions outlined in the report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 01 November 2017

107 Headland Road North Curl curl - Demolition and construction of a dwelling house

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0610
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 11 DP 10571, 107 Headland Road NORTH CURL CURL NSW 2099
Proposed Development:	Demolition and construction of a dwelling house
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David William Mulligan Mary Therese Mulligan
Applicant:	David William Mulligan Mary Therese Mulligan
Application lodged:	23/06/2017
Integrated Development:	No
Concurrence Required:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	27/06/2017 to 13/07/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,996,209.00

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D2 Private Open Space
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D11 Roofs
 Warringah Development Control Plan - D13 Front Fences and Front Walls

SITE DESCRIPTION

Property Description:	Lot 11 DP 10571 , 107 Headland Road NORTH CURL CURL NSW 2099
Detailed Site Description:	<p>The subject site is located on the southern side of Headland Road, North Curl Curl, and is directly south of the Wheeler Parade junction.</p> <p>The site is upon land zoned for R2 low density residential development.</p> <p>The site is regular in shape with a frontage of 12.4m and depths of 53m and 55m respectively, equating to a surveyed area of 666.9m².</p>

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	<p>Presently the site accommodates a detached dwelling house with an in-ground swimming pool in the rear yard.</p> <p>Surrounding developments consist of other detached dwelling houses of various age, size and construction. Both houses to the east and west of the subject site are extensive renovated.</p> <p>Topographically the site declines from north to south by approximately 8.0m and has some large rock outcrops located mid-way down the site.</p>
--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Map:



SITE HISTORY

Development Application No. 2013/0125

Application for alterations and additions to the existing dwelling including a southern extension and first floor addition.

An assessment of the application found that the proposal did not comply with the building height, building envelope or landscaping control and resulted in an excessive building bulk and unreasonable view sharing.

The application was subsequently withdrawn.

Prelodgement Meeting No. 2013/0075

Following the withdrawal of DA2013/0125 as above, a prelodgement meeting (PLM) was held with Council to discuss design alternatives.

Development Application No. 2013/1132

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Application for alterations and additions lodged with Council, similar in design to DA2013/0125 and the amendments discussed in PLM2013/0075.

Council issued a letter to the applicant on 18 November 2013 which outlined that Council did not support the application as a result of engineering issues and the classification of the building as a 'new dwelling' rather than alterations and additions'.

The application was subsequently withdrawn.

Development Application No. 2015/0427

Application for alterations and additions to the existing dwelling house. This proposal is not reminiscent of previous schemes.

The application proposed, inter alia, a first floor addition and an extension to the south.

The application was approved by Council's Application Determination Panel on 10 September 2015.

It should be noted that, as outlined on the architectural plans accompanying the current development application, the dwelling approved under DA2015/0427 is an additional storey higher than proposed and extends further south (for a portion of the dwelling) than the current proposal.

Prelodgement Meeting No. 2017/0031

A prelodgement meeting was held with Council to discuss the construction of a new dwelling of a similar design to that of the current application.

PROPOSED DEVELOPMENT IN DETAIL

The development application is for demolition of an existing dwelling, construction of a two storey dwelling and alterations to the existing swimming pool.

The works proposed include:

- Minor excavation and groundworks beyond that of the existing dwelling;
- Construction of a lower ground floor with a southern facing balcony;
- Construction of an elongated ground floor within a cross-brace like exposed steel structure and a southern facing balcony;
- Construction, planting and establishment of a roof top garden for the entire ground floor;
- Reconfiguration of the swimming pool surrounds and decking;
- Construction of a new driveway crossing;
- Associated landscape works.

The proposed dwelling is of a contemporary architectural form which is simple in form (rectangular), but significantly articulated by the encompassing steel frame, operable/fixed steel louvres and large roof garden.

AMENDMENTS TO THE SUBJECT APPLICATION

Following preliminary assessment of the application, site inspection and view loss assessment the applicant



was advised of view loss and visual impact concerns originating from the enclosed rear balcony element of the building.

In response, the applicant has submitted amended plans that removed all enclosing elements of the rear balcony and reduced the extent of the roof top garden area to align with the southern most projection of the building.

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&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>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.</p> <p><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.</p> <p><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.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of</p>



Section 79C 'Matters for Consideration'	Comments
	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	<p>(i) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact 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 3 submission/s from:

Name:	Address:
Mr John Michael Craig	105 Headland Road NORTH CURL CURL NSW 2099
Mr James Otley Land	109 Headland Road NORTH CURL CURL NSW 2099
Mr James Alexander George	22 Bellevue Parade NORTH CURL CURL NSW 2099

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

- **Geotechnical Hazards**
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- **View Loss**
- **Overshadowing**
- **Privacy**
- **Green Roof**
- **Stormwater**

Geotechnical Hazards

A submission received has requested that the geotechnical report accompanying the development application be included as a condition of consent.

Comment

The geotechnical report accompanying the development application has been included as a recommended condition of consent (Condition no. 1) and further, additional conditions are recommended requiring adherence with the relevant BCA and Australian Standards during demolition, excavation and construction works.

This matter has been resolved via conditions of consent.

View Loss

View loss concerns have been raised from the adjoining property to the west (No. 109 Headland Road)

Comment:

This matter is addressed elsewhere in this report (refer to Clause D7 - 'Views' under Warringah Development Control Plan).

In summary, it was found that the development achieves consistency with the planning principles outlined within the Land and Environment Court Case of *'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140'* and that the extent of qualitative impact upon view sharing is considered to be negligible to moderate and the proposal, as conditioned, is reasonable in this instance.

Therefore, this matter does not warrant the refusal of the application.

Overshadowing

Concern is raised that the proposal will result in adverse overshadowing.

Comment:

Clause D6 Access to Sunlight under the Warringah Development Control Plan 2011 (WDCP 2011) sets out the minimum requirements when considering the impact of overshadowing on adjoining properties arising from development.

Specifically, Requirement No. 2 states:

'At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.'

The shadow diagrams submitted with the application (refer to drawing No.s 100-10E, 100-11E, 100-11A and 100-12E prepared by CarterWilliamson) demonstrate that at least 50% of the private open space of adjoining dwellings receive a minimum of 3 hours sunlight between 9am and 3pm on June 21.

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Therefore the proposal complies with the requirements of Clause D6 and ensures a reasonable access to sunlight is maintained for adjoining dwellings.

This matter does not warrant refusal of the application.

Privacy

Concern is raised that the proposal will result in adverse overlooking of adjoining properties.

Comment:

The proposal has been designed to ensure a reasonable level of privacy is maintained between buildings. The proposal includes privacy treatments (louvres) along the eastern and western building elevations which, in conjunction with the physical separation between buildings, will ensure no unreasonable overlooking occurs and a reasonable level of privacy is maintained.

Further, the finished floor levels of the proposed dwelling are offset from the properties adjoining to the east and west which ensure no unreasonable direct or close overlooking.

The proposed dwelling is setback 20.9m from the rear boundary of the site. This physical separation is sufficient to ensure no overlooking occurs of the rear yard of properties to the south.

Green Roof

Concern is raised in the submission received about the potential species and maintenance of the proposed green roof, as the vegetation could obstruct existing views if it is left wild.

Comment

The proposed green roof has been reviewed by Council's Landscape Officer who raises no objections subject to a condition restricting the height of any planting on the roof. The on going maintenance of the roof top planting is a civil matter and the responsibility of the future dwelling occupants. However to ensure that any planting does not obstruct views and reduce the opportunities for debris to spread to adjoining properties, the planting will be restricted to a maximum height of 200mm above the roof top garden level. This will ensure that only ground cover can be established within the roof top garden. A condition to this affect has been included in the recommendation of this report.

This matter does not warrant refusal of the application.

Stormwater

Concerns are raised from the adjoining property to the south in relation to the stormwater management for the development.

Comment:

The application is accompanied by a stormwater plan which has been reviewed by Council's Development Engineer in accordance with Council's Stormwater Management Policies. It is noted that the applicant has sought an easement through the property to the south (No 22 Bellevue Parade) which was formally refused by letter dated 9 September 2017 from the owner of this property.

The letter states that the applicant and the owner of the property to the south have discussed the proposal and mitigation measures for future stormwater management.

The stormwater management proposal for the development has been reviewed by Council's Development Engineer who raises no objections to the proposal subject to conditions which have been included in the recommendation of this report.

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This matter does not warrant refusal of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Development Engineers	<p>The property is located on the low side of the road. At the pre-lodgement meeting the applicant and owner were advised that the stormwater drainage would need to be designed in accordance with Council's Water Management Policy in particular the Stormwater Drainage from Low Level Properties Technical Specification. In this regard, the applicant must provide evidence of the refusal for a drainage easement from the downstream property owner. This evidence has not been submitted with the application. Once this evidence is submitted, an assessment of the proposed method of stormwater disposal may be undertaken. A preliminary review of the design indicates that the hydraulic consultant has not designed the system in accordance with the above policy.</p> <p>Not supported for approval due to inadequate information to address the disposal of stormwater in accordance with clause C4 of Council's DCP.</p> <p>Additional Information Received 11/09/2017</p> <p>The evidence for the refusal of an easement through the downstream property is acceptable to assess the level spreader design in accordance with Council's policy. The design is considered acceptable with a minor amendment which is conditioned. The driveway crossing is to be reconstructed as part of the works which is also conditioned.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Landscape Officer	<p>It is noted that the proposal include planting in the form of roof gardens. If height of planting needs to be maintained for view corridors, the following condition could be included (height measurement to be nominated as appropriate).</p> <p><i>Height of vegetation</i> <i>Any planting installed as roof garden is to be maintained at height not exceeding (XXX mm), measured from the soil level adjacent to the plant.</i></p> <p><i>Reason: Protection of local amenity (DACLAGOG1)</i></p> <p>No objections subject to conditions</p>
External Referral Body	Comments

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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. 826350S dated 20 June 2017). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0001550029-04 dated 15 June 2017).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	40	43

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



SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Warringah Local Environment Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.5m	23.5%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes

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Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	8.5m
Proposed:	10.5m
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	23.5%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The subject site is constrained by the topography of the land which declines from north to south, and the existing and surrounding properties have all been constructed to take advantage of this topography and the views that can be afforded to the south and south-east. The diagram above demonstrates the fall in the land,

Surrounding development consists of an array of dwellings of varying age and scale. Notably, the



building to the east is a two storey dwelling which steps down the hill, and the building to the west is a five storey dwelling which steps down the hill and is built up higher.

As such, the proposal for a part one / part two storey dwelling is considered to be of a height and scale that is compatible with that of surrounding and nearby developments. From the streetscape the building appears as single storey, and from various vantage points to towards the south, the cantilevered design of the ground floor obstructs views of the lower ground floor, resulting in the development appearing as single storey and or a scale much lesser than the adjoining dwellings at No. 105 and 109 Headland Road.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The development has been designed to effectively minimise its visual impact and disruption of views.

The development allows for a reasonable sharing of views between properties. A view corridor has been maintained across the roof of the site from properties located to the north and filtered views through the open balcony structure will be maintained from the adjoining property to the west.

Shadow diagrams submitted with the application indicate that the development will not unreasonably overshadow adjoining properties. Privacy between buildings has been carefully considered and adequate privacy will be maintained through a combination of physical separation and the privacy treatments proposed, including louvres on the eastern and western facades of the building.

The development satisfies this objective.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The architecture of the proposal is contemporary and interesting and will be complementary to the eclectic mix of architecture throughout the streetscape. The development includes an expansive green roof with low-lying species as detailed in the architectural plans. The combination of the built form, articulation features and green roof result in a development which is considered to enhance the scenic quality of the area.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The development will not have a detrimental visual impact when viewed from surrounding public places including Headland Road, Wheeler Parade and Wingala Reserve to the north west.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

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The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The development provides housing for the community

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The application does not propose any change of land use to that of the existing development on site.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The development provides landscaping as a key feature of the design which will provide visual interest to the area and maintain a landscaped character.

It is considered that the development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed variation to the development standard is consistent with objectives of this Clause as it provides an appropriate degree of flexibility in applying the Height of Buildings Development Standard to the development. The topographical constraints of the site require a degree of flexibility in applying the height of buildings development standard as is the case in this circumstance.

The proposed variation will achieve a better outcome for the development as it allows for a new, contemporary dwelling house to be provided within a low density residential that does not result in any unreasonable visual or physical impacts on surrounding and nearby development.

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(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The applicants written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and is provided below:

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite non-compliance with the height of buildings standard, the proposed scale and form of the development is compatible with the intended low density residential character of the locality.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", it is considered that there are positive impacts through providing the dwelling in its current form. To step the dwelling down the site would reduce the amenity afforded to the future residents. The minor breach to accommodate the roof at the rear of the dwelling has minimal impacts in terms of shadow, visible bulk and scale from the streetscape or overlooking. Compliance could be achieved by lowering the dwelling at that point or increasing the rear setback, however, there would be no gain in any other terms and the change would be to the detriment of the quality of living space provided to the future occupants.

The merits of the proposal on "environmental planning grounds" need to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a better or neutral outcome. The development has been designed to provide a high quality urban outcome which will benefit the streetscapes and the future residents. Strict compliance would not achieve any measurable or perceptible gains of any nature.

The minor variations apply to very small sections of the proposed building and in no way undermine or dismiss the relevance of the building height control. The proposed built form will not set an undesirable precedent.

To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form or amenity benefits. As such the proposal results in a high quality residential development which is suited to the site and its context and the streetscapes and is compatible with the continued amenity and privacy of neighbouring properties.



Having regard to all of the above, it is our opinion that compliance with the height of buildings development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone. Notwithstanding, the non-compliance is minor and will have no significant impact in terms of shadow, privacy, built form and character. Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied and Council has the power to grant variation to the height of buildings development standard as proposed.

Insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied.

As detailed throughout this Clause, the assessment of the proposed variation against the provisions of this Clause generally concurs with the reasons provided by the applicant.

The variation proposed to the Height of Buildings Development Standard does not result in unreasonable visual or physical impacts on surrounding and nearby development or when viewed from the public domain. The topographical constraints of the site allow for an appropriate degree of flexibility to be exercised in applying the Height of Buildings Development Standard.

For these reasons the variation is supported in this instance.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicants written request that has adequately addressed the matters required to be demonstrated by subclause (3).

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the WLEP 2011.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt
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Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard is assumed.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.3m	10%	No
B3 Side Boundary Envelope	East - 5.0m	Encroachment at a maximum height of 4.3m and for a length of 22.0m	86%	No
	West - 5.0m	Encroachment at a maximum height of 4.1m and for a length of 7.0m	82%	No
B5 Side Boundary Setbacks	East - 0.9m	External stair - 0.0m	100%	No
		Dwelling - 1.18m	-	Yes
	West - 0.9m	External stair - 0.0m	100%	No
		Dwelling - 1.07m	-	Yes
B7 Front Boundary Setbacks	North - 6.5m	Garage - 4m	38.5%	No
		Entry feature wall - 2.8m	57%	No
B9 Rear Boundary Setbacks	South - 6.0m	20.9m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (276.m ²)	32.4% (224m ²)	19% (less 52.4m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
Easements		
C7 Excavation and Landfill	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	No	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
D13 Front Fences and Front Walls	No	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed lift over run and clerestory windows exceed the 7.2m wall height and achieve a maximum height of 8.3m.

Beneath the first floor cantilever to the south is open with no built structure and as such, this area is not considered to exceed the wall height control, despite the wall being at a distance greater than 7.2m above NGL, as the physical wall itself is only 3.8m in height.

This calculation is as per requirement (1) of cl. B1 of the DCP which reads:

Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).

Merit consideration:

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

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

Comment:

The portion of the development which exceeds the maximum permissible wall height is located centrally in the roof form and is surrounded by the roof garden. As such, the development will have an appropriate visual impact when viewed from adjoining properties, streets and public places.

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

Comment:

The development is beneath the existing tree canopy level.

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

Comment:

View sharing is addressed in cl. D7 of this report.

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

Comment:

The area of the development encroaching the maximum permissible wall height will not have any detrimental impact upon surrounding properties, and is measured to be less than the maximum permissible building height as per cl. 4.3 of the WLEP.

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

Comment:

The proposed development includes some excavation to match that of existing excavation which is present for a portion of the site. Said excavation gives rise to the non-compliant wall height, however the excavation is not considered to be unreasonable, and the dwelling is suitable for the site topography.

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

Comment:

The development includes a non-trafficable green roof which is considered an innovative design.

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.

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B3 Side Boundary Envelope

Description of non-compliance

The proposed development encroaches the side boundary envelope on both the eastern and western elevation as follows:

- East - encroachment at a maximum height of 4.3m and for a length of 22.0m; and
- West - encroachment at a maximum height of 4.1m and for a length of 7.0m.

The areas of the building which encroach the envelope are largely contained within the cantilever which overhangs natural rock outcrops below.

The eastern envelope encroaches a further length given the existing excavation on site.

Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The side boundary envelope encroachments benefit from the architecture of the dwelling which, in itself, is significantly articulated and visually interesting. The areas of encroachment are largely restricted to the southern cantilever which is only 3.8m in height, and is open beneath. As such, the encroachment is not the result of excessive height or bulk, rather it is consequent of the attempt made to preserve the rock outcrop beneath by utilising a cantilevered element.

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

Comment:

The development achieves compliance with controls detailed elsewhere in this report in regards to overshadowing and spatial separation.

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

Comment:

The dwelling is considered to be responsive to the topography of the site by virtue of making use of the existing excavation, the minor extent of additional excavation and the protection of topographical features.

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.

B5 Side Boundary Setbacks

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The proposed construction of at-grade pathways and steps along the eastern and western property boundaries encroach the side boundary setback.

The portion of the development encroaching the 900mm side setback control satisfy the provisions of the exceptions control which reads as:

Screens or sunblinds, light fittings, electricity or gas meters, or other services infrastructure and structures not more than 1 metre above ground level (existing) such as unroofed terraces, balconies, landings, steps or ramps may encroach beyond the minimum side setback.

The pathways and steps proposed are both at grade with the current ground level, or below grade where excavation is proposed as shown in the accompanying architectural plans.

The dwelling has side boundary setbacks greater than the minimum required.

B7 Front Boundary Setbacks

Description of non-compliance

The proposed development encroaches the 6.5m front boundary setback and proposes a garage with a setback of 4.0m and a front entry feature wall (roofed) with a setback of 2.8m.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The subject and surrounding sites are constrained by sloping topography declining from north to south and as such, it is not irregular for portions of dwellings to encroach the front setback area.

The proposed development is not considered to encroach the front setback in a way which would be considered to reduce a sense of openness. Further, given the architectural of the proposal, the dwelling will appear as single storey from the street with the green roof visible, thus contributing to a sense of openness within the streetscape.

The front fence proposed is of steel pallisade construction and does not exceed a height of 1.3m, further contributing to the overall architecture of the proposal and creating a sense of openness by virtue of the pallisade and height.

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

Comment:

Numerous surrounding dwellings on the southern side of Headland Road (thus exposed to the same topographical constraint) have structure encroaching the front setback area including:

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Nos. 101, 103, 113, 115, 117, 119 and so on.

It is further noted that the adjoining property to the west (No. 109 Headland Road) presently has a DA in with Council for the construction of a double garage with a nil setback to the boundary.

Given the above, it is considered that the proposed development is consistent with the visual continuity and pattern of buildings and landscaped elements throughout the streetscape, and particularly in response to those on the southern side of Headland Road.

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

Comment:

The setback proposed will not detract from the streetscape given consistency with the pattern of buildings, and will enhance the visual quality of the streetscape through its contemporary and interesting design.

- *To achieve reasonable view sharing.*

Comment:

The encroachment of the front boundary setback will not give rise to any unreasonable or unacceptable view loss. This matter is further addressed in cl. D7 of this report.

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.

C3 Parking Facilities

The proposed development does not meet the following requirement:

- *Where garages and carports face the street, ensure that the garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the lesser.*

Given the width of the site, topography of the land and lay of surrounding development, compliance with this control is not practical. The proposed non-compliance allows for a development which is consistent with surrounding dwellings.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed development does not achieve the required provision of 40% landscaped open space (LOS).

In strict compliance with the requirements of the control the site is calculated to have a LOS of 32.4% (224m²). This is a requirement (1) (a) of cl. D1 of the DCP reads:

a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation.



Therefore, a large portion of the landscaping beneath the cantilever of the first floor is technically 'roofed' and excluded from this calculation.

If dispensation to this requirement is considered, given that there is a vertical distance of some 3.0m - 7.5m between natural ground level (NGL) and the underside of the cantilever, the LOS would be calculated at 40.9% (283m²) - which represents a satisfactory quantum of landscaping as per the 40% requirement.

Additionally, the proposal has a green roof which measures some 30.8m in length by 9.54m in width, equating to an area of 293.8m². This whole area has plantings with a soil depth of approximately 250mm (which the exception of the lift overrun and some clerestorey windows located centrally in the roof form).

Whilst the green roof is not counted as LOS given that it does not satisfy requirement (1) c) and (d) of cl. D1 of the DCP (as per below), the roof is considered to satisfy the objectives of the control in improving the visual aesthetics and habitat for wildlife within the immediate area.

c) Landscaped open space must be at ground level (finished); and

d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.

For the purpose of a merit assessment of the 52.4m² shortfall of LOS, the green roof is considered in the assessment below.

Merit consideration

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

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

Comment:

The streetscape will be enhanced by the proposed development which includes a designed landscape strategy for the site as a whole, including the front setback. More notably, and given the topography of the land, the green roof will be visible from surrounding properties, the public domain and public roads which will enhance the visual aesthetic of the area.

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

Comment:

The development does not propose the removal of any significant indigenous vegetation, topographical features and habitat for wildlife. Further, the design goes to efforts to preserve the natural environment by maximising usage of existing excavation, cantilevering over rock outcrops and providing a provision of multiple landscaped areas, albeit consistent with the requirements of the control or not, which will provide habitats for various forms of 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.*

Comment:

The varying landscaped areas throughout the site are capable of supporting a variety of flora

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through establishment and growth which will contribute to mitigating any perceived height, bulk and scale of the dwelling house.

- *To enhance privacy between buildings.*

Comment:

The provision of landscaping along the eastern and western boundaries is unlikely to be significant or contribute to enhancing privacy, however this matter is resolved through the architecture of the design.

Landscaping provided at the southern most edge of the site provide privacy and a buffer between residential properties which, coupled with the topography of the land, provide privacy to adjoining properties.

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

Comment:

The site has sufficient areas for outdoor recreational opportunities.

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

Comment:

The site has sufficient space for service functions.

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

Comment:

The site has a sufficient provision of landscaping to contribute to facilitating water management and the infiltration of stormwater. Further, Council's development engineers have reviewed the proposed stormwater system and raise no objections, subject to conditions as recommended within this report.

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.

D2 Private Open Space

The proposed development does not have a satisfactory provision of private open space which is directly accessible from a living area.

The topography of the land restricts the availability of a large external entertaining area to be directly accessible without there being a large obtrusive balcony or terrace.

Notwithstanding the non-compliance with this requirement, the development provides a satisfactory provision of private open space throughout the site and meets the objectives of the control.



D7 Views

As a result of the public exhibition of the development application, a submission was received from the dwelling to the east, No. 109 Headland Road, which raised view loss as a concern.

A site visit to the objecting property was undertaken in the morning on 3 August 2017. Following this site inspection a request was made to the applicant to erect height poles to enable a full and accurate view loss assessment to be undertaken. The applicant responded by erecting height poles on 1 September, another site inspection was undertaken on this date. The height of the poles has been surveyed by a registered surveyor as accurate.

It should be noted that following the erection of height poles the applicant was advised of view loss and visual bulk concerns resulting from the rear balcony area and its enclosed nature. The applicant agreed to amend the design of the balcony area to create a sense of openness by removing the enclosing side walls, green roof and permanent roof structure over the balcony area. The resultant building element is an exposed truss that breaks up the visual bulk of the rear balcony area and allows for a view corridor to be provided through the structure to the south east.

It is further noted that a site inspection of the local area and surrounding development has determined that an appropriate sharing of views is maintained from properties to the north given the proposed roof level relative to the floor levels of the properties to the north. In addition, no submissions have been received from any of these properties to the north and therefore no further comments are made to views from these properties.

The following is an assessment of views from the adjoining property to the west (No. 109 Headland Road).

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:

The views obtained from the property are panoramic views to the south across the five levels of the dwelling. The proposed dwelling is due east of the objecting dwelling and views in this direction do not include any iconic views, and largely consist of water views some 800m west.

The property currently enjoys land and water interface views along the whole of Curl Curl Beach. The views affected by the proposed development are of land and water views located at the far northern end of Curl Curl Beach, North Curl Curl surf life saving club and Curl Curl Lagoon.

The easterly views are partially obstructed by existing development, powerlines and trees.







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

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

Comment to Principle 2:

The affected views are obtained from the middle level (4th storey) of the building. The views are obtained from the living, kitchen and dining room over the eastern side boundary. The views are affected from a standing and sitting position.

It should be noted that those views affected from a sitting position are of less value than those obtained in a standing position and are heavily obstructed by existing vegetation and buildings.

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:



The property currently enjoys expansive 180 degree views which extend from the northern most part of Curl Curl Beach along the shoreline to the southern end of Curl Curl Beach and sweeping district views to the south and southwest which include distant views of the Sydney Central Business District skyline.

The views affected are located to the east of the subject site and include land and waterface views of the northern most part of Curl Curl Beach, district views of North Curl Curl and Curl Curl Lagoon.

As detailed above the property enjoys expansive land and waterface views, district views and views of the Sydney CBD skyline, which in their majority, will be maintained. To this extent the loss of views is considered to be 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:

The development proposes variations to a number of built form controls and the Height of Buildings Development Standard. The assessment of these variations has found the development to satisfy the underlying objectives of the relevant controls and development standard.

The loss of views outlined within this view loss assessment does result from the breach of the Height of Buildings Development Standard. However the breach is minor, relates to an external truss and if reduced to achieve compliance would only maintain views of the skyline to the east. The highly valued views of Curl Curl Beach and land and water interface are maintained and filtered through the open balcony structure. however on the basis of the views to be retained from the adjoining property the proposal is considered acceptable the view sharing reasonable in this instance. The breach is minor and relates to the

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

Comment:

The proposed development is considered to be innovative in design as discussed throughout this report. The design is more skillful than that of the previously approved dwelling on the site and has a lesser environmental impact in terms of amenity, excavation and habitats for wildlife.

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

Comment:

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The application does not proposed the removal of any existing canopy trees.

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.

D11 Roofs

The proposed green roof atop of the ground floor is relatively unique for the area, and is discussed throughout this report and is visible in the diagrams.

As notated on the architectural plans (10-06 A) the plant species for the roof are to be finalised in consultation with a green roof specialist, which will ensure both the longevity and durability of the plants in context to the site specific conditions.

Notwithstanding, a condition has been included in the recommendation of this report restricting the maximum height of any planting, at maturity, to the top of the roof parapet.

D13 Front Fences and Front Walls

Merit consideration

The application proposes the construction of a 1.3m high steel pallisade fence and gate along the front boundary.

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

- *To ensure that fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.*

Comment:

The proposed fence is open in design and of a height which is consistent, if not lesser than that, with surrounding developments. The fence will create visual interest through the materials palette and contrast to the dwelling.

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

Comment:

The fence is considered to be of a scale and design that is innovative and complementary to the streetscape.

- *To avoid a 'walled in' streetscape.*

Comment:

The fence attains a maximum height of 1.3m and is open in design (pallisade) and will not give rise to the perception of a walled in streetscape.



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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 1,996,209		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 18,964
Section 94A Planning and Administration	0.05%	\$ 998
Total	1%	\$ 19,962

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 DA2017/0610 for Demolition and construction of a dwelling house on land at Lot 11 DP 10571, 107 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
10-01 F	13 June 2017	Carterwilliamson Architects
10-02 K	13 June 2017	Carterwilliamson Architects
10-03 K	13 June 2017	Carterwilliamson Architects
10-04 K	13 June 2017	Carterwilliamson Architects
10-05 C	13 June 2017	Carterwilliamson Architects
10-06 A	13 June 2017	Carterwilliamson Architects
20-01 K	13 June 2017	Carterwilliamson Architects

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20-02 J	13 June 2017	Carterwilliamson Architects
20-03 J	13 June 2017	Carterwilliamson Architects
20-04 J	13 June 2017	Carterwilliamson Architects
30-01 K	13 June 2017	Carterwilliamson Architects
30-02 K	13 June 2017	Carterwilliamson Architects
30-03 K	13 June 2017	Carterwilliamson Architects
30-04 C	13 June 2017	Carterwilliamson Architects
30-05 K	13 June 2017	Carterwilliamson Architects
30-06 C	13 June 2017	Carterwilliamson Architects
100-02 C	13 June 2017	Carterwilliamson Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 826350S	20 June 2017	Damian O'Toole Town Planning Pty Ltd
Geotechnical Investigation	8 May 2017	White Geotechnical Group

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:

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan	20 June 2017	Carterwilliamson

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



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

2. Prescribed Conditions

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

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

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

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

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

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

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

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

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

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



land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways,

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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 sewer areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 1,996,209.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 18,963.99
Section 94A Planning and Administration	0.05%	\$ 998.10
Total	1%	\$ 19,962.09

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.

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5. **Security Bond**

A bond (determined from cost of works) of \$10,000 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).

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

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

6. **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)

7. **Vehicle Driveway Gradients**

Driveway gradients within the private property are to be in accordance with AS/NZS 2890.1:2004. 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)

8. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any

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property boundary, and
(b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety. (DACENC19)

9. On-site Stormwater Detention

An On-site Stormwater Detention system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification, and generally in accordance with the concept drainage plans prepared by Acor Consultants Pty Ltd, drawing number SY160907 C1.01, C1.05, C1.06 and C2.01 issue A dated 07.06.17.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The orifice plate is to be amended to 105mm diameter.
2. A 100mm wide by 100mm deep Class 'D' Grated Drain is to be provided within the side at the boundary to the driveway crossing with a connection to the proposed internal drainage system.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Detention Technical Specification, are to be submitted to the Certifying Authority for approval 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. (DACENC20)

10. Soil & Water Management Program

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

11. Tree protection

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land

- (b) Tree protection

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- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

12. 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 Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

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

13. External Finishes to Structure

The external finish to the external louvres and roof elements shall be of a medium to dark range colour 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)

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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 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. Roof garden

Any planting installed as roof garden is not to exceed the parapet level (RL49.2) of the roof garden at maturity.

Details demonstrating compliance are to be submitted to the certifying authority prior to the issue of a Construction Certificate.

Reason: Protection of local amenity

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. Vehicle Crossings

The provision of one vehicle crossing 4 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. 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. 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)

19. **Waste Management During Development**

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

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

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

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

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

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

Reason: Preservation of significant environmental features (DACLAEOG1)

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

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. 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)

25. 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)

26. 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)

27. Removal of All Temporary Structures/Material and Construction Rubbish

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

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

Reason: To ensure bushland management. (DACPLF01)



28. **Waste Management Confirmation**

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

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

29. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(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.

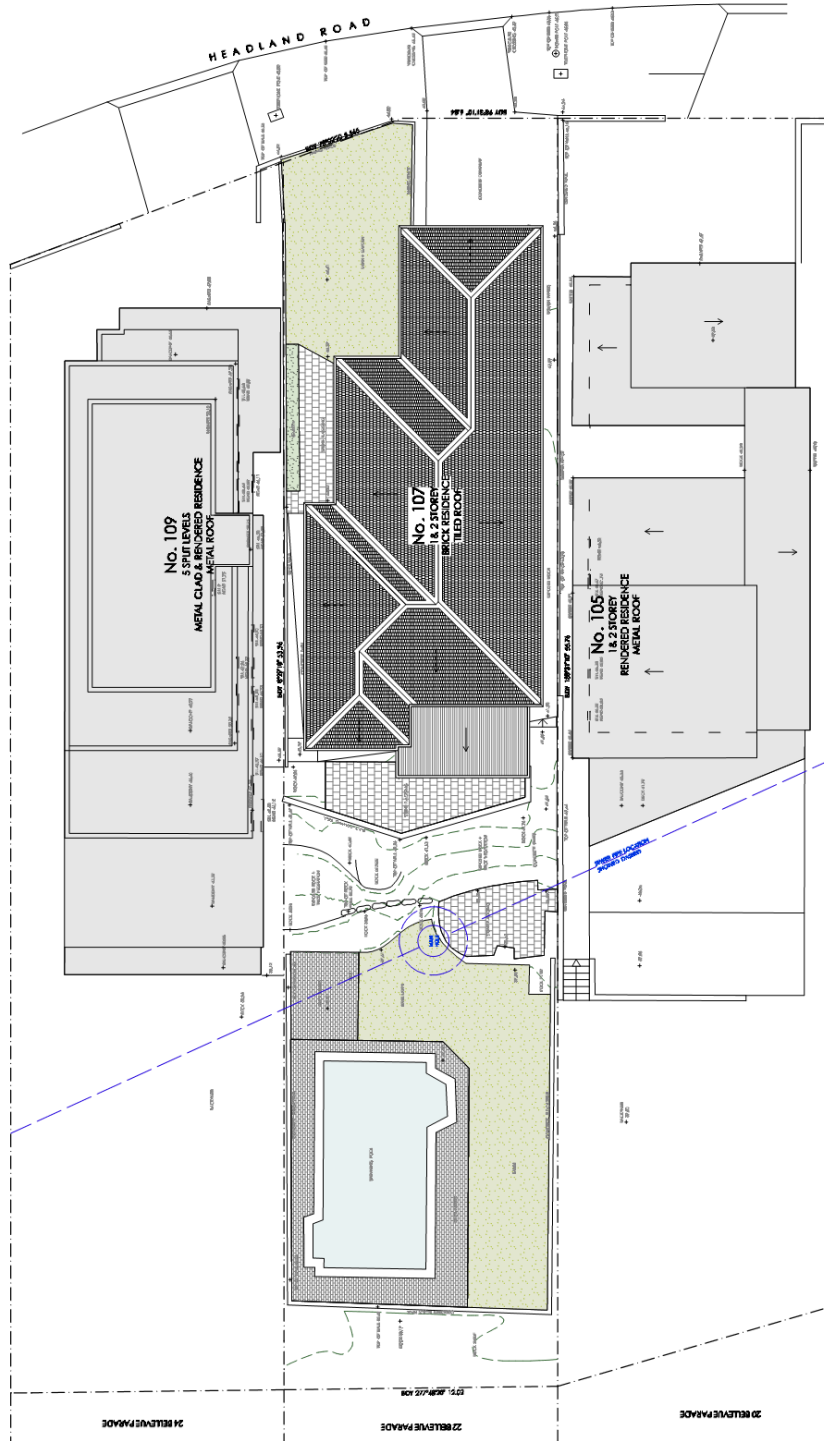
(b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

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

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

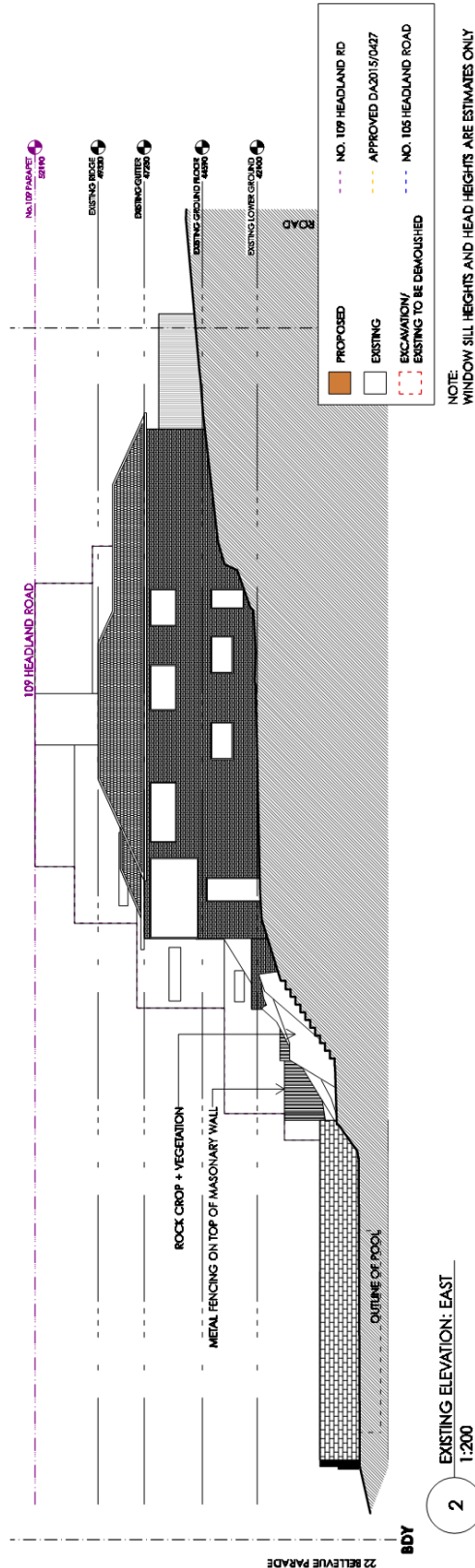
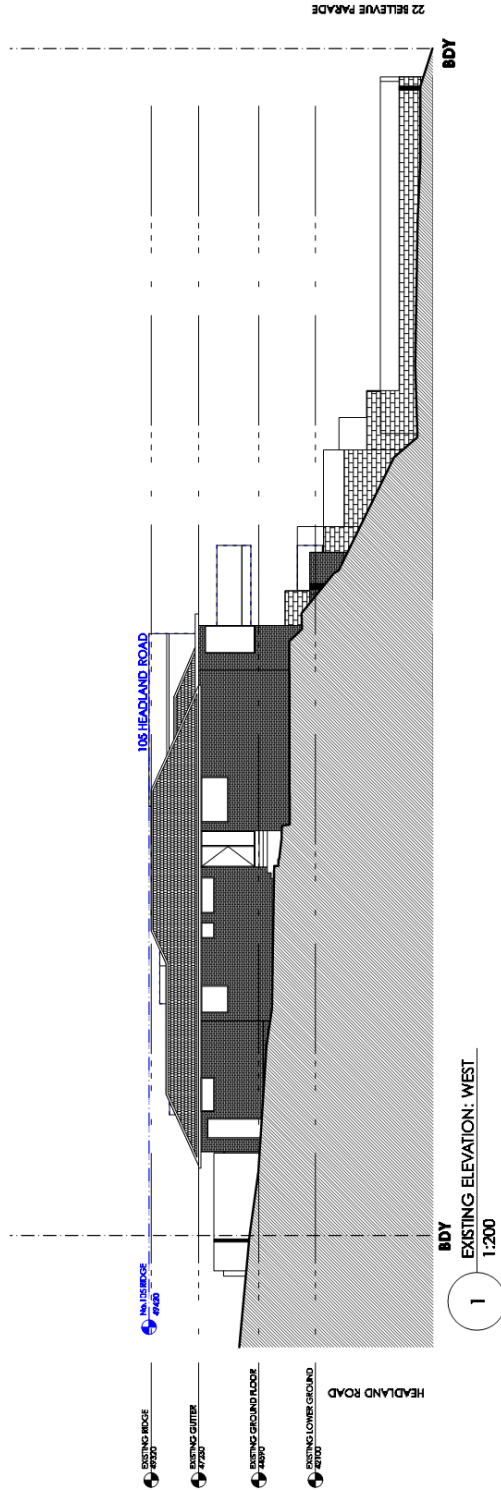
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To protect human life. (DACPLF10)



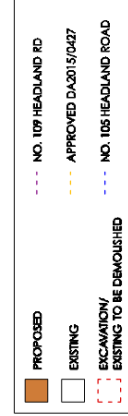
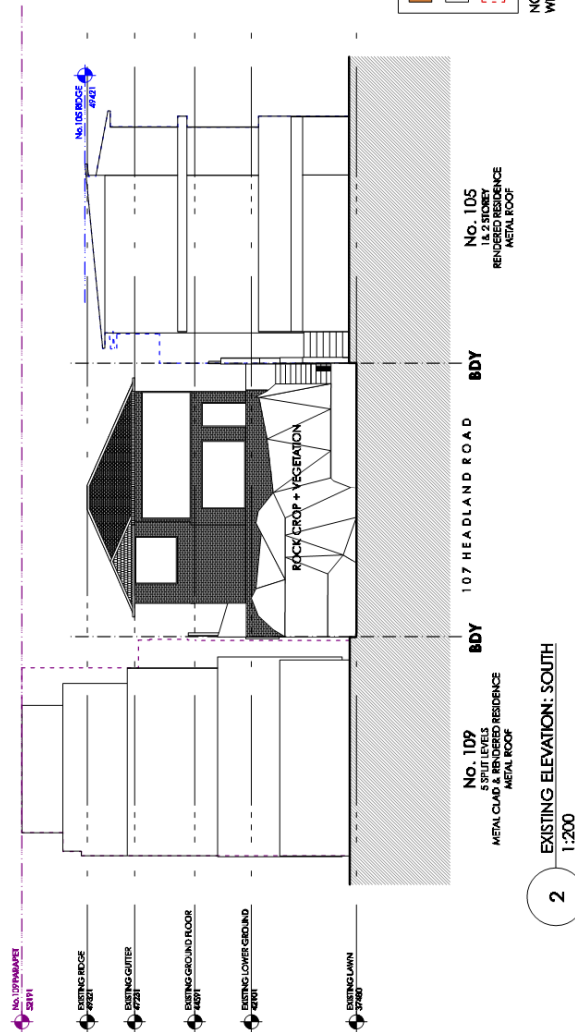
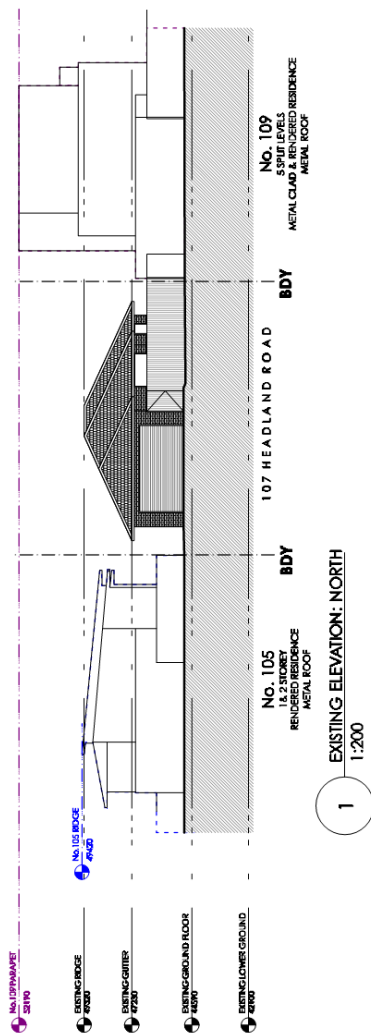
1 EXISTING PLAN: SITE
1:200

NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	EXISTING PLAN: SITE
<p>PRELIMINARY FOR CONSTRUCTION This drawing is for information only and may not be reproduced without the permission of Carter Williamson.</p> <p>www.carterwilliamson.com a level 1/142 smith st, surrattah rd, 21300, newcastle 1513 9799 4472</p>	<p>VOS verify on site FFL finished floor level AFRL above finished floor level NTS not to scale ML reduced level</p>	<p>reference clients address description</p> <p>1.6223 David & Mary Mulligan 107 Headland Rd, Nth Curl Lot 11 DP 10571</p>	<p>A FOR DA APPLICATION</p> <p>drawn Sch chld LM/SC scale 1:200 paper A3</p>	13/6/17	01-01 A



NOT FOR CONSTRUCTION

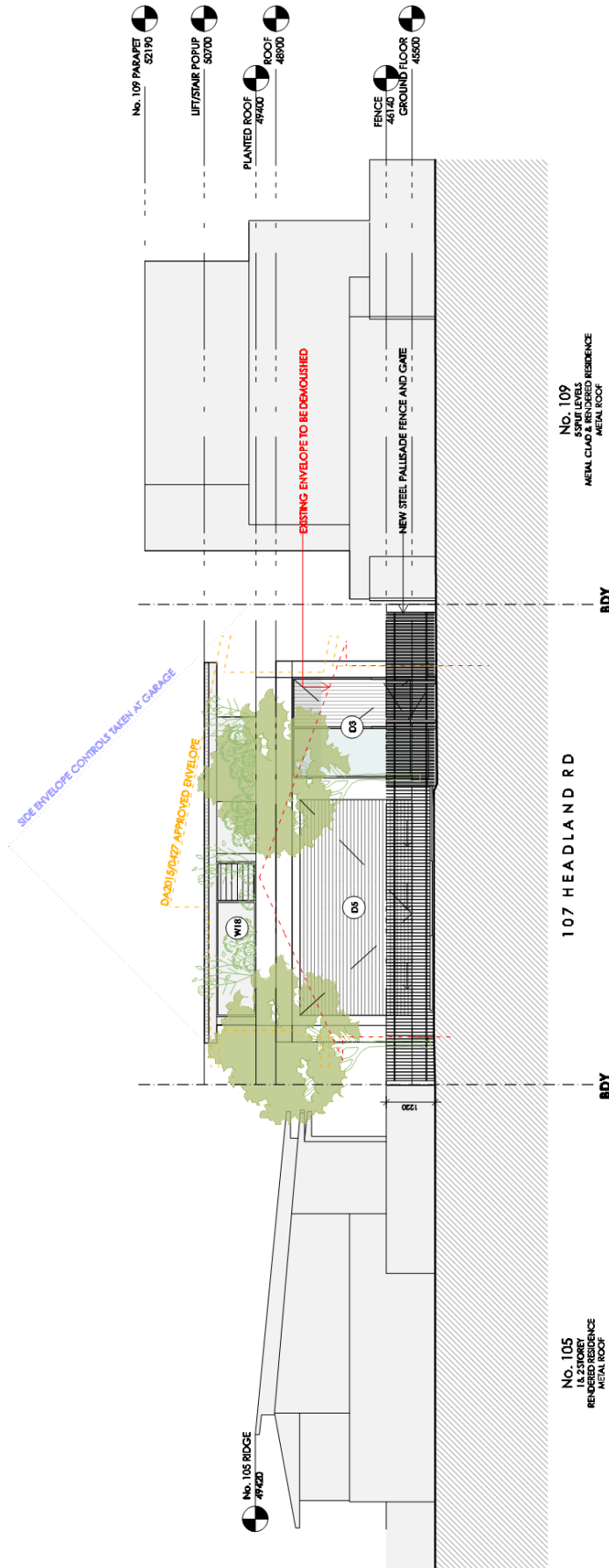
NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	EXISTING ELEVATIONS 1
<p>PRELIMINARY FOR CONSTRUCTION This drawing is for construction only and may not be reproduced without the permission of Carter Williamson.</p> <p>www.carterwilliamson.com</p> <p>1/1/12 smith & surrey h/d, 21/30, new 4, 1/12 9799 4427</p>	<p>VOS verify on site</p> <p>FFL finished floor level</p> <p>APFL above finished floor level</p> <p>NTS not to scale</p> <p>ML reduced level</p>	<p>reference</p> <p>clients</p> <p>address</p> <p>description</p>	<p>A FOR DA APPLICATION</p>	<p>13/6/17</p>	<p>00-06 A</p>



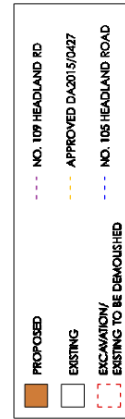
NOTE:
WINDOW SILL HEIGHTS AND HEAD HEIGHTS ARE ESTIMATES ONLY

NOT FOR CONSTRUCTION

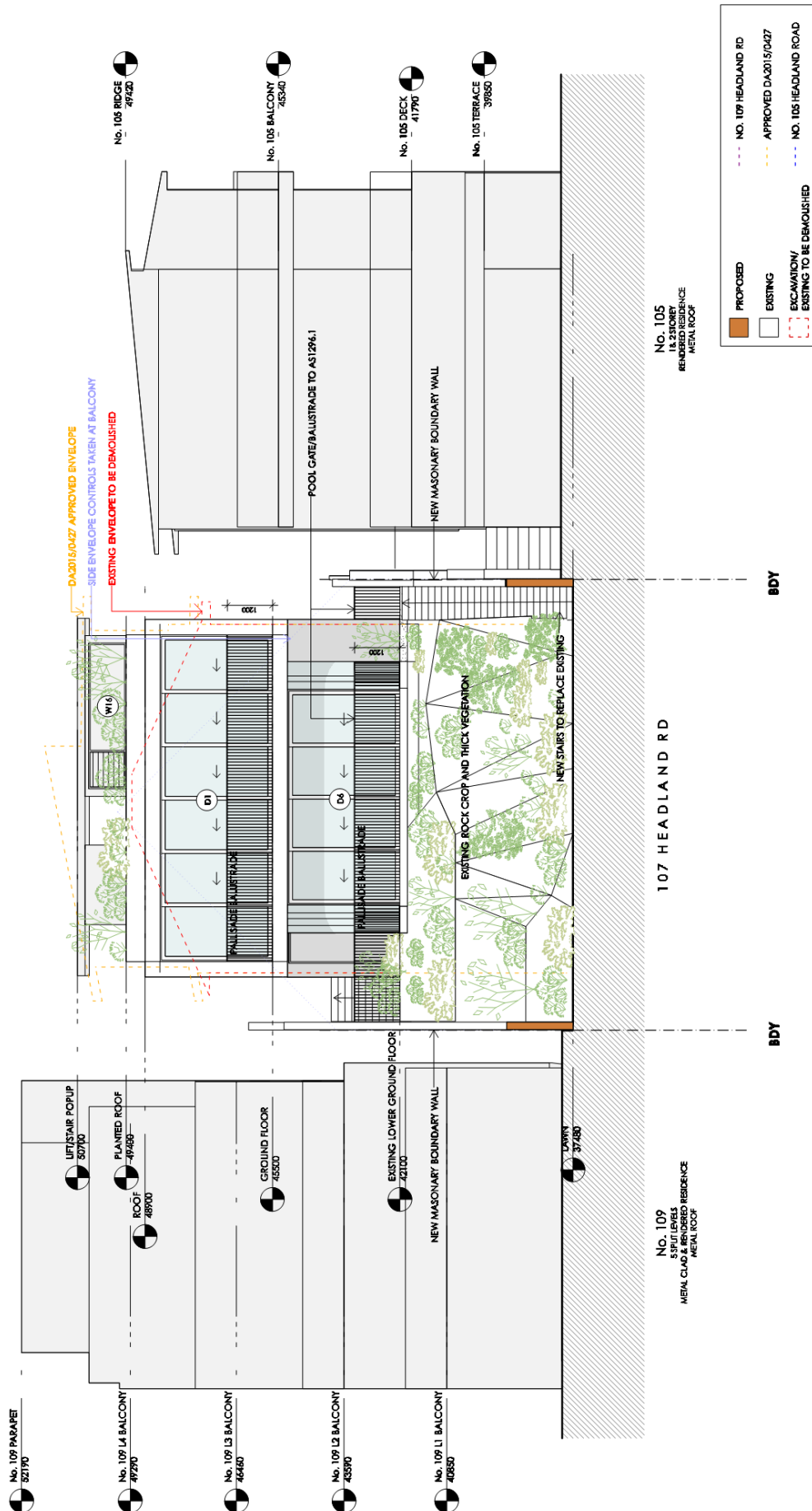
NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	EXISTING ELEVATIONS 2
<p>PRELIMINARY NOT FOR CONSTRUCTION This drawing is copyright and may not be reproduced without the permission of Carter Williamson.</p>	<p>VCS verify on site FRL finished floor level AIRs above finished floor level MIS not to scale RL reduced level</p>	<p>reference clients address description</p> <p>16223 David & Mary Mulligan 107 Headland Rd, Nth Curl Lot 11 DP 10571</p>	<p>drawn checked scale paper</p> <p>Sch chkd 1:200 A3</p>	<p>13/6/17</p>	<p>00-07 A</p>



1 ELEVATION: NORTH
1:100

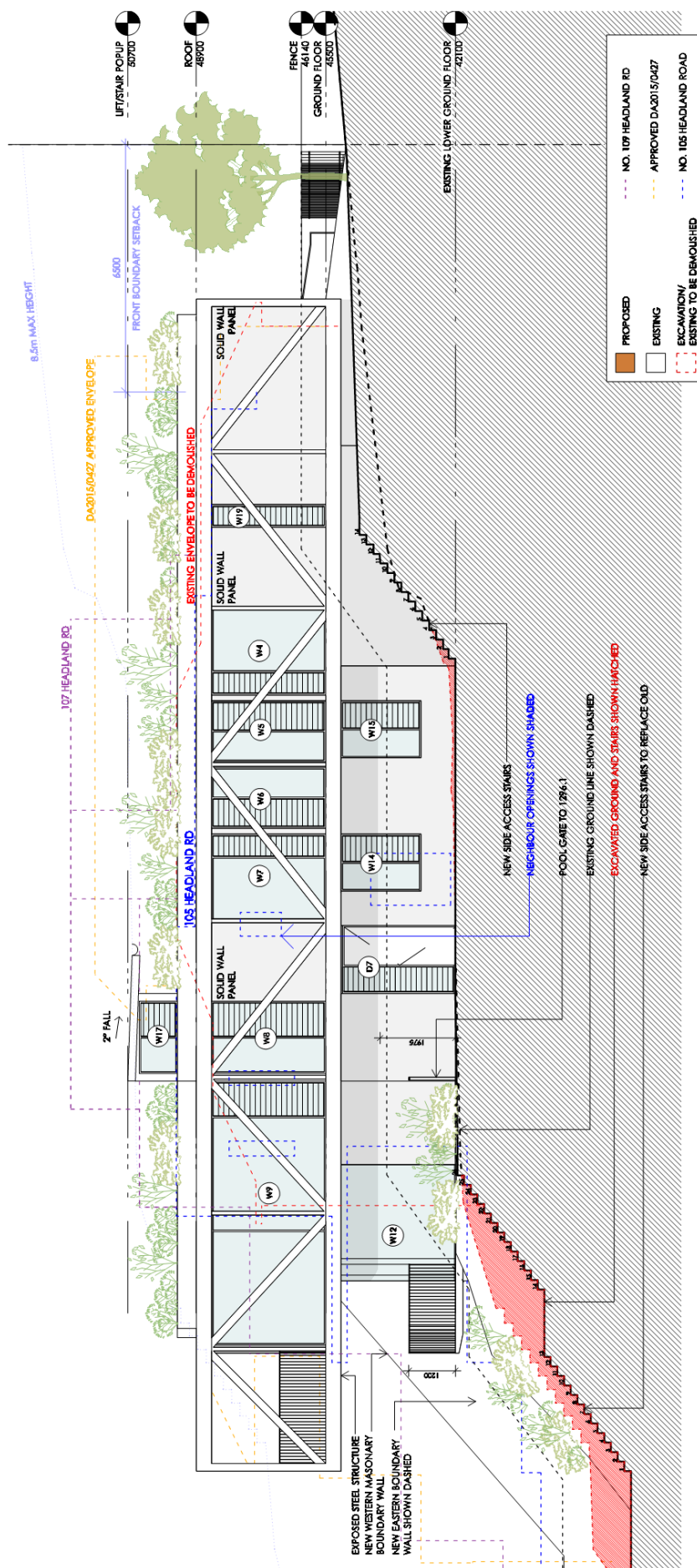


NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	ELEVATION: NORTH
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1 ELEVATION: SOUTH
1:100

NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	ELEVATION: SOUTH
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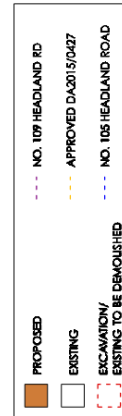
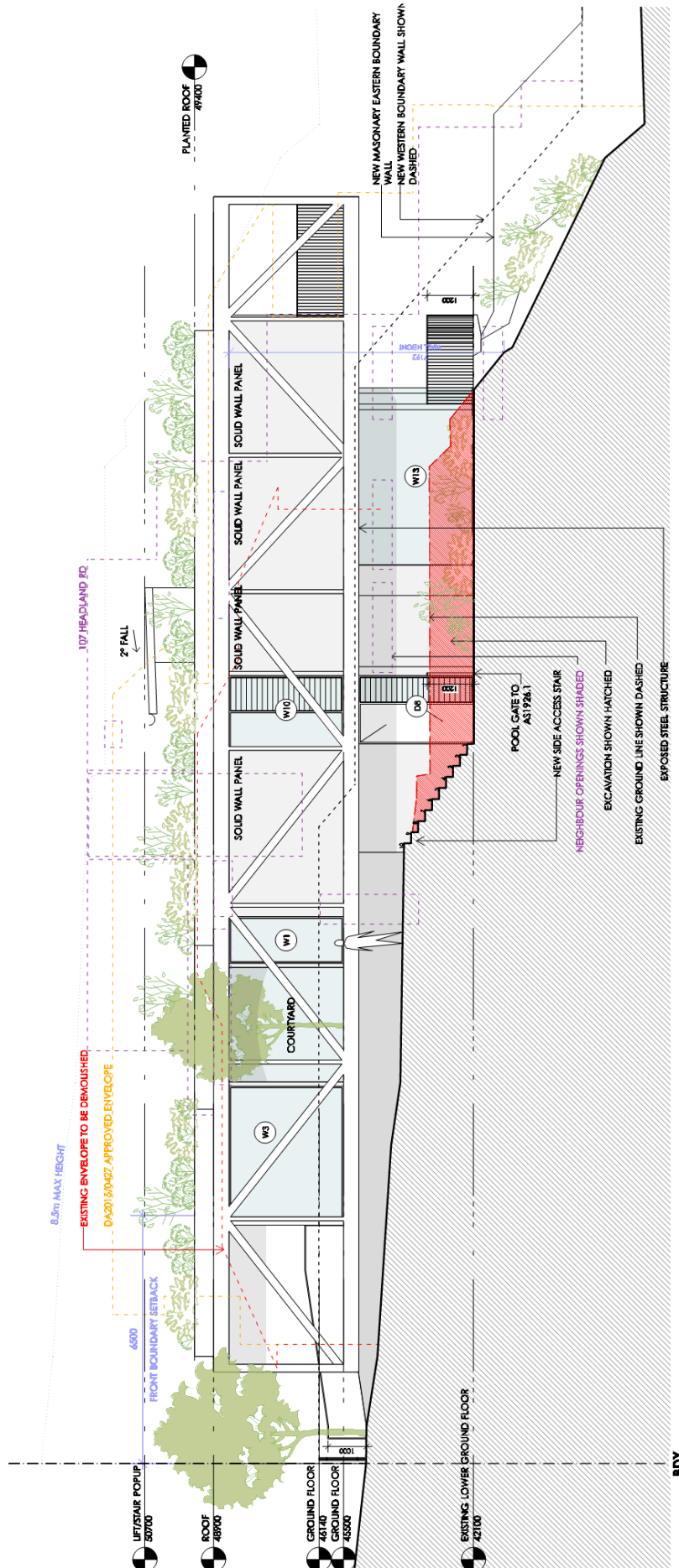
1
ELEVATION: EAST (BEHIND LOUVRES)
1:100

NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	ELEVATION: EAST (BEHIND LOUVRES)
<p>PRELIMINARY</p> <p>NOT FOR CONSTRUCTION</p> <p>Drawings are preliminary and may not be reproduced without the permission of Carter Williamson.</p> <p>carterwilliamson architects www.carterwilliamson.com</p>	<p>VQS verify on site</p> <p>FFL finished floor level</p> <p>AFRL above finished floor level</p> <p>NTS not to scale</p> <p>RL reduced level</p>	<p>reference</p> <p>clients</p> <p>address</p> <p>description</p>	<p>L FOR DA APPLICATION</p> <p>drawn Sch</p> <p>checked LM/SC</p> <p>scale 1:100</p> <p>paper A3</p>	<p>11/10/17</p>	<p>30-03 L</p>



NOTES	ABBREVIATIONS	DETAILS	REVISION NOTE	DATE	ELEVATION: EAST (LOUVRES)
PRELIMINARY FOR CONSTRUCTION This drawing is copyright and may not be reproduced without the permission of Carter Williamson.	VQS verify on site FFL finished floor level AFR above finished floor level NIS not to scale RL reduced level	reference clients address description	drawn SCH checked LW/SC scale 1:100 paper A3	11/10/17	30-04 D
		1.0223 David & Mary Mulligan 107 Headland Rd, Nth Curl Lot 11 DP 10571	D FOR DA APPLICATION		

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1 ELEVATION: WEST (BEHIND LOUVRES)
1:100

DATE 11/10/17

REVISION NOTE L FOR DA APPLICATION

drawn Sch
chld LM/SC
scale 1:100
paper A3

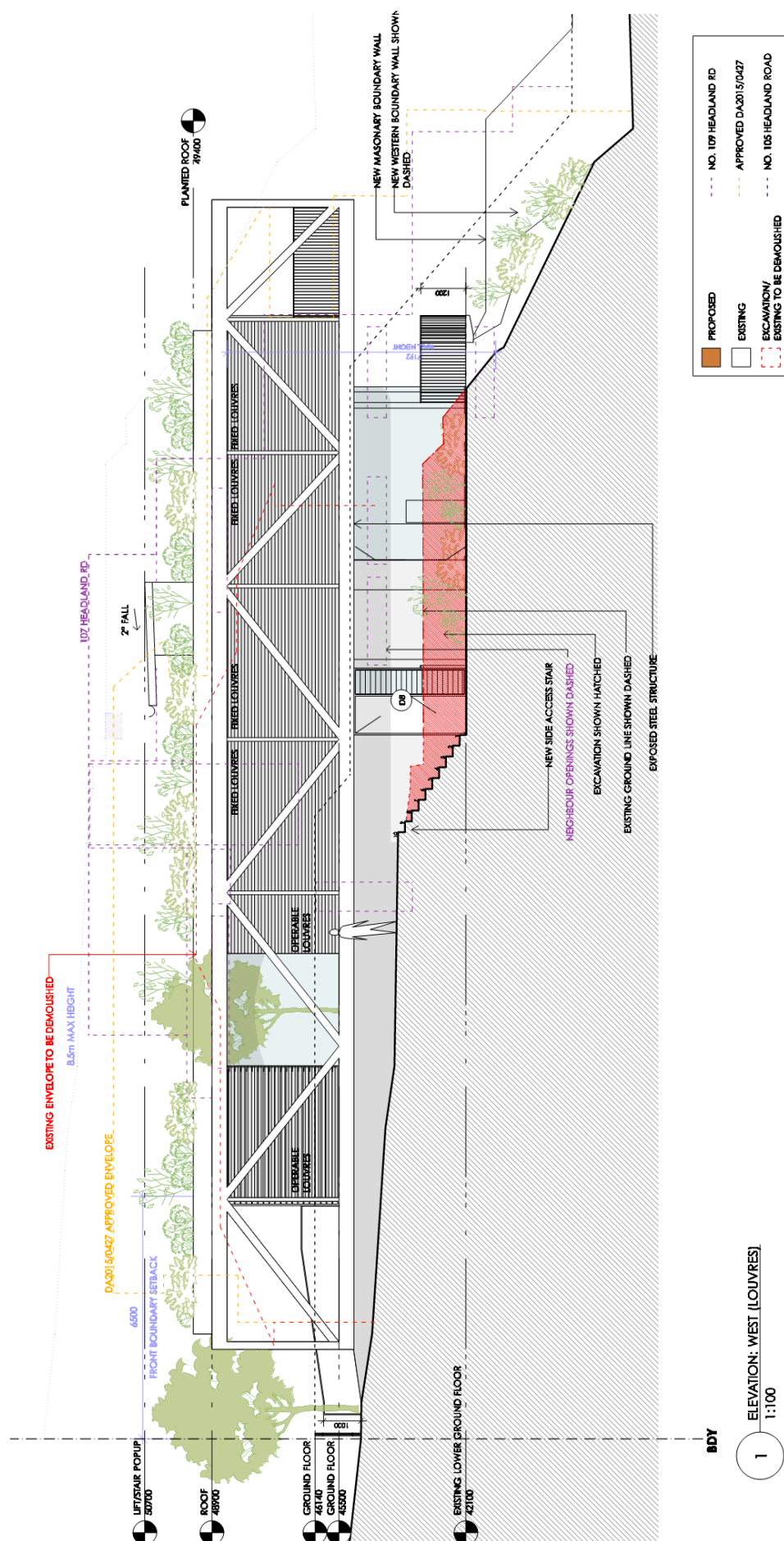
reference 1.6223
clients David & Mary Mulligan
address 107 Headland Rd, Nth Curl
description Lot 11 DP 10571

ABBREVIATIONS
VOS verify on site
FFL finished floor level
AFLL above finished floor level
NTS not to scale
ML reduced level

NOTES
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30-05 L

[illegible]