

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2018/1932 |
| Responsible Officer: | Maxwell Duncan |
| Land to be developed (Address): | Lot 33 DP 5659, 42 Surf Road NORTH CURL CURL NSW 2099 |
| Proposed Development: | Demolition works and construction of a dwelling house including swimming pool |
| Zoning: | Warringah LEP2011 - 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: | Archer Properties No.13 Pty Limited |
| Applicant: | Nolan Planning Consultants |
| Application lodged: | 07/12/2018 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Single new detached dwelling |
| Notified: | 17/12/2018 to 24/01/2019 |
| Advertised: | Not Advertised |
| Submissions Received: | 4 |
| Recommendation: | Refusal |
| Estimated Cost of Works: | \$ 792,000.00 |

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 Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 6.3 Flood planning
 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 - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - E11 Flood Prone Land

SITE DESCRIPTION

| | |
|-----------------------------------|--|
| Property Description: | Lot 33 DP 5659 , 42 Surf Road NORTH CURL CURL NSW 2099 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the western side of Surf Road.</p> <p>The site is regular in shape with a frontage of 9.145m along Surf Road and a depth of 32.05m. The site has a surveyed area of 321.9m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house.</p> <p>The site down from the western to the eastern side of the property approximately 2.6m.</p> <p>The subject site is located within a medium-low risk flood hazard area.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential development.</p> |

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks approval for the construction of a three storey dwelling house with swimming pool and double garage and construction of driveway cross over and associated landscaping.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Waringah Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |

| Section 4.15 Matters for Consideration' | Comments |
|--|---|
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters may be addressed via a condition of consent, should the application be approved.</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 considered the number of days taken in this assessment in light of this clause within the Regulations.</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 may be addressed via a condition of consent, should the application be approved.</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). These matters may be addressed via a condition of consent, should the application be approved.</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. These matters may be addressed via a condition of consent, should the application be approved.</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). These matters may be addressed via a condition of consent, should the application be approved.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) 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. In summary, the proposal involves the unreasonable impacts to privacy and overshadowing as a result of the proposed building bulk and scale.</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</p> |

| Section 4.15 Matters for Consideration' | Comments |
|--|---|
| | proposed land use. |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered unsuitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | This assessment has found the proposal to be contrary to the relevant requirement(s) in relation to setback, building envelope, bulk and scale, loss of landscaped open space The proposed development will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 4 submission/s from:

| Name: | Address: |
|---|--|
| Mrs Meagan Coady | 17 Griffin Road NORTH CURL CURL NSW 2099 |
| Mr Carl Raynor Seaver Boston Blyth Fleming Pty Ltd Mrs Carlu Kim Seaver | 40 Surf Road NORTH CURL CURL NSW 2099 |
| Mr Robert Jeremy Breen Romic Planning | 44 Surf Road NORTH CURL CURL NSW 2099 |
| Daniel Marshall | 19 Griffin Road NORTH CURL CURL NSW 2099 |

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

- **Privacy**
- **Views**
- **Solar access**
- **Excessive bulk and scale**

- **Invasive landscaping**
- **Landscape area non-compliance**
- **Front setback non-compliance**
- **Waste management**

The matters raised within the submissions are addressed as follows:

- **Privacy**

Comment:

Concern was raised by neighbouring properties in regards to the potential overlooking between the subject site and adjoining properties. Of particular concern is that of the outdoor living spaces on the first floor bedroom to the front and rear of the proposed dwelling. The proposal has been assessed against the privacy provisions under Part *D8 Privacy* of the Warringah DCP. In summary, the balconies to the rear of the property off bedroom 2 and 3 are not supported.

Accordingly, this matter is included as a reason for refusal.

- **Views**

Comment:

Concern was raised in regards to view loss from private open space at Curl Curl Beach. The proposal has been assessed against the view loss provisions under Part D7 of the Warringah DCP and the Land and Environment Court Case of '*Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140*' in this report (refer to Part D7 under the WDCP 2011 section of this report). In summary, the proposed development does not cause unreasonable view loss to from private open spaces.

This matter does not warrant the refusal of the application.

- **Solar Access**

Comment:

Concern was raised in regards to the loss of sunlight to neighbouring property to the south (No. 44 Surf Road). The development application has been assessed against the solar access provisions under Part *D6 of the Warringah DCP*. In summary, insufficient information has been provided to properly assess the impact to the adjoining property. The shadow diagrams submitted with the application do not demonstrate do not effectively detail the shadows for the winter solstice on June 21 for 9:00am, 12 midday and 3:00pm. Council could not determine the impact upon living room windows or to the private open space of the adjoining property to the south.

Accordingly, this matter is included as a reason for refusal.

- **Excessive Bulk and Scale**

Comment:

This matter is discussed in detail under Part *D9 Building Bulk* section of this report. In summary, the proposed development does not incorporate design solutions to minimise bulk and scale of the development on neighbouring properties. This is a direct result of the wall height, building envelope, landscape open space and front and rear setback non-compliance.

Accordingly, this matter is included as a reason for refusal.

- **Invasive landscaping**

Comment:

There is concern that the proposed planting of *Strelitzia nicolai* (Giant White Bird of Paradise) would be unsuitable for the site, given the recent history of the species being planted. Issues included that the species introduced unwanted fauna and the plant becoming invasive and having an impact upon other landscape features including grassed area. The species is not noted as being invasive under the Warringah DCP, however the planting is not shown to be planted to the rear of the site.

This matter does not warrant the refusal of the application.

- **Landscape area non-compliance**

Comment:

Concern was raised in regards to the level of landscaping proposed across the site. The development application proposes a significant variation to the numeric control and the proposal has been assessed in detail against Part *D1 Landscaped Open Space and Bushland of the Warringah DCP* in this report. In summary, the significant variation to the landscaped open space control is not supported. While it is noted that recent approvals of dwelling houses within Surf Road, have included variation to the landscaped open space control, the variation proposed under this application is considered unreasonable.

Accordingly, this matter is included as a reason for refusal.

- **Front setback non-compliance**

Comment:

Concern is raised in regards to the proposed front setback non-compliance and the resulting impact upon streetscape and amenity impacts including views to adjoining properties. An assessment of non compliance under Part *B7 Front boundary setbacks* of the Warringah DCP in this report. In summary, the significant variation to the front setback control is not supported.

Accordingly, this matter is included as a reason for refusal.

- **Waste management**

Comment:

Concern is raised in regards to the potential of hazardous materials being exposed during demolition of the existing dwelling house.

This matter does not warrant the refusal of the application and could be satisfied through a condition of consent, should the application be approved.

REFERRALS

| Internal Referral Body | Comments |
|------------------------|---|
| NECC (Coast and | The proposed development is supported without condition and has |

| Internal Referral Body | Comments |
|---|---|
| Catchments) | been assessed to comply with SEPP Coastal Management. It is not likely to alter coastal processes to the detriment of the environment or other land and is not likely to reduce public amenity or existing access to and use of the foreshore. |
| NECC (Development Engineering) | <p><u>Flooding:</u></p> <p>Please refer to Floodplain Engineering assessment in regard to basement levels proposed below the flood planning area. Any amendments to the proposal may require reassessment by Development Engineering.</p> <p>No objections are raised to the proposed development application, subject to conditions.</p> |
| NECC (Riparian Lands and Creeks) | No objection to the proposed development with no additional conditions recommended. |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | <p>The proposed development is for the demolition of the existing dwelling and the construction of a new three storey dwelling. The subject site is located within the Medium Flood Risk Precinct as identified in the Curl Curl Lagoon Floodplain Risk Management Study (2005). The proposed development does not comply with Council's Local Environmental Plan, 2011, Development Control Plan and Flood Prone Land Design Standard. The following non-compliances have been identified:</p> <ul style="list-style-type: none"> • Development on flood prone land is required to achieve a net loss of flood storage, the proposed development results in 84 cubic metres of flood storage, which is considered significant. A net zero reduction in flood storage is considered acceptable. • The lower-ground floor/basement level is below the Flood Planning Level, it is proposed to be dry-proofed by sealing the perimeter as accessing through a raised entry porch. This is not considered acceptable, new floor levels are required to be set at or above the Flood Planning Level of 4.0m AHD. <p>The above inconsistencies with Council's requirements for developing on flood prone land will need to be address in any revised proposal.</p> <p><i>Planners comments:</i> Due to non-compliance with the requirements under WLEP 2011, WDCP 2011 and Flood Prone Land Design Standard this issue will form a reason for refusal.</p> |

| External Referral Body | Comments |
|----------------------------|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |
| Aboriginal Heritage Office | No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of |

| External Referral Body | Comments |
|------------------------|---|
| | surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. |

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. 978256S_02).

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

| Commitment | Required Target | Proposed |
|-----------------|-----------------|----------|
| Water | 40 | 40 |
| Thermal Comfort | Pass | Pass |
| Energy | 50 | 51 |

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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposal will cause an adverse impacts on the relevant matters described above in subclause (1).

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The proposal is considered to have minimal or no impact in any of these areas listed above.

14 Development on land within the coastal use area

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed dwelling house will not adversely impact upon the following:

- Existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- overshadowing, wind funnelling and the loss of views from public places to foreshores,
- the visual amenity and scenic qualities of the coast, including coastal headlands,
- Aboriginal cultural heritage, practices and places,
- cultural and built environment heritage, and

The bulk and scale of the development will not compromise the coast. The impacts of the development are restrained to impacts upon the streetscape.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed works are considered to have a negligible impact on the surrounding environment and is unlikely to cause an increased risk of coastal hazards on the subject land or other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|--|
| Height of Buildings: | 8.5m | 8.6m | 1.1% | No (see detail under Clause 4.6 below) |

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 | No |
| 6.1 Acid sulfate soils | Yes |
| 6.2 Earthworks | Yes |
| 6.3 Flood planning | No |
| 6.4 Development on sloping land | Yes |

Detailed Assessment

4.6 Exceptions to development standards

The calculated height from the existing ground level to the top of the dwelling house is 8.6 (1.1% variation). The applicant states that the development complies with the building height and has therefore not provided a written request that seeks to justify contravention of the development standard. As the applicant has not provided a Clause 4.6, no further assessment has been undertaken and this issue has been included as a reason for refusal.

6.3 Flood planning

The subject site is located within the Medium Flood Risk Precinct as identified in the Curl Curl Lagoon Floodplain Risk Management Study (2005), and as such was referred to Council's flood officer for comment. The officer found that the proposed development does not comply with Council's Local Environmental Plan, 2011.

Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

Warringah Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---|--------------|--|--------------|----------|
| B1 Wall height | 7.2m (south) | 7.9m | 9.7% | No |
| | 7.2m (north) | 7.5m | 4.1% | No |
| B3 Side Boundary Envelope | 5m | South- Encroachment up to 1.3m for length of 18.2m. | 21.87% | No |
| | 5m | North- Encroachment of up to 1.4m for length of 18.2m. | 18.84% | No |
| B5 Side Boundary Setbacks | 0.9m (south) | 1.01m -1.4m | - | Yes |
| | | 0m (swimming pool) | 100% | No |
| | 0.9m (north) | 0m (entry awning) - 1.4m | 100% | No |
| | | 0m (swimming pool) | 100% | No |
| B7 Front Boundary Setbacks | 6.5m | 4.8m | 72.5% | No |
| B9 Rear Boundary Setbacks | 6m | 0m (swimming pool) | 100% | No |
| | | 6m (dwelling house- First floor) | - | Yes |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% | 6.3% (20.3m ²) | 84% | 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: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| B1 Wall Heights | No | No |
| B3 Side Boundary Envelope | No | No |
| B5 Side Boundary Setbacks | No | No |
| B7 Front Boundary Setbacks | No | Yes |
| B9 Rear Boundary Setbacks | No | No |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | Yes | Yes |
| C5 Erosion and Sedimentation | Yes | Yes |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |
| D1 Landscaped Open Space and Bushland Setting | No | No |
| D2 Private Open Space | Yes | Yes |
| D3 Noise | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| D6 Access to Sunlight | No | No |
| D7 Views | Yes | Yes |
| D8 Privacy | No | No |
| D9 Building Bulk | No | No |
| D10 Building Colours and Materials | Yes | Yes |
| D11 Roofs | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D16 Swimming Pools and Spa Pools | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| D22 Conservation of Energy and Water | Yes | Yes |
| E8 Waterways and Riparian Lands | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |
| E11 Flood Prone Land | No | No |

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposal has a wall height of up to 7.9m on the southern side of the development and 7.5m for the northern side, which does not comply with the maximum wall height of 7.2m, representing a variation of 9.7%.

Merit consideration:

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

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

Comment:

The proposed dwelling house as viewed from the street and the adjoining parkland would be overbearing and contrary to the desired streetscape character. The proposed dwelling house is of much larger bulk and scale when compared to adjoining properties to the north and south.

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

Comment:

There is no existing prevailing tree canopy level to consider against the dwelling house.

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

Comment:

The proposed dwelling house will maintain view sharing to and from public and private properties.

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

Comment:

The non-compliance with the wall height will result in unreasonable and detrimental impacts upon adjoining properties by virtue of visual impact, privacy and overshadowing.

Accordingly, the development is inconsistent with this objective.

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

Comment:

The proposal does not excavate into any significant natural landforms. The topography of the site does not propose unreasonably inhibit the development potential of the site.

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

Comment:

The proposed roof pitch and design is considered to be satisfactory.

Accordingly, the development is consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

The northern and southern elevations of the proposed dwelling encroach the side boundary envelope control by the following:

North - Encroachment of up to 1.4m for length of 18.2m. (21.87% variation)

South - Encroachment up to 1.3m for length of 18.2m. (18.84% variation)

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 proposed dwelling house proposes a significant variation to the side boundary envelope control on both the northern and southern elevations of the dwelling. The variation extends the entire length of the building both the northern and southern side. The result of this non-compliance, will ensure a dwelling house that is of unreasonable bulk and scale in this residential setting. The dwelling as proposed is an overdevelopment of the site. The level of building articulation at the third storey is minimal and would present as overbearing as viewed from both the street and adjoining properties to the north and south.

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

Comment:

The submitted shadow diagrams indicate significant shadowing to the adjoining property to the south. However, insufficient information in regards to shadowing is provided to undertake a full assessment of the impact.

The proposed development will result in unreasonable privacy impacts to neighbouring dwellings.

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

Comment:

The subject site is constrained by the sloping topography of the site from the rear to the front of the property. However, the proposed development does not adequately respond to the topography of the site. The third storey fails to significantly reduce the apparent building mass as viewed from neighbouring properties and the street frontage.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of non-compliance

Part B5 of the Warringah DCP requires development be setback from side boundaries at least 0.9m. The proposed swimming pool (coping) has a nil setback, non-compliant with the numeric control.

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

The proposed size of the swimming pool does not allow for significant level of deep soil landscaping through the site.

- *To ensure that development does not become visually dominant.*

Comment:

The swimming pool is located at ground level. The pool does not appear as visually dominant from the streetscape.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The non-compliance relates only to the swimming pool. The proposed dwelling house is consistent with the side setback requirements.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The proposed swimming pool separation is considered satisfactory in regards to privacy and solar access.

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

Comment:

The proposed swimming pool will not compromise views to and from public and private properties.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

Part B7 of the Warringah DCP requires development be setback at least 6.5m from the front boundary. The proposed ground floor balcony is setback 4.8m and first floor terrace is setback 5.7m, non-compliant with the numeric control. This represents a 18.8% variation to the numeric control.

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 ground floor balcony and first floor terrace form the non-compliance to the front setback control. The proposed outdoor living areas contribute to the streetscape and allow for a sense of openness.

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

Comment:

The proposed development follows the existing front setback established in the streetscape. The area of non-compliance is restricted to above ground level and does not impact upon landscaped open space.

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

Comment:

The proposed outdoor living areas proposed within the front setback are consistent with other outdoor living areas located along the western side of Surf Road. The proposed balcony and terrace will not diminish the quality of the streetscape or public spaces.

- *To achieve reasonable view sharing.*

Comment:

No views will be unreasonably disrupted by the provision of the outdoor living spaces located within the allocated 6.5m front building setback.

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

B9 Rear Boundary Setbacks

Description of non-compliance

Part B9 of the Warringah DCP requires development be setback at least 6m from the rear boundary. The proposed swimming pool is setback 0m, non-compliant with the numeric control. This represents a 100% variation to the numeric control.

Swimming pools that do not exceed 50% of the rear setback area, provided that the objectives of this provision are met, are exempt from the 6.0m control. The proposed swimming pool exceeds 50% of the rear setback area.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The total area of the rear setback area is 59m², the proposed swimming pool takes up 38m² or 73% of the rear setback area. As such, the proposed development does not meet this exemption clause.

The size of the proposed swimming pool does not allow for areas of deep soil to be maintained.

- *To create a sense of openness in rear yards.*

Comment:

The proposed development creates a sense of openness in the rear yard, with the swimming pool proposed at ground level.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The proposed swimming pool would retain reasonable levels of privacy, subject to conditions to ensure the pool filter box was acoustically treated.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The proposed level of landscaping in the rear setback is inconsistent with the overwhelming majority of properties along Surf Road. Properties including Nos, 38, 36, 34 32 and 30 Surf Road have incorporated greater levels of deep soil landscaped area and vegetation to soften and offset the visual impact of the dwelling houses and enhance porous area on site.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The proposed swimming pool will retain reasonable levels of privacy.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not 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 be landscaped open space.

The proposed development provides 6.3% (20.3m²) of the total site area as landscaped open space which represents a variation of 84%.

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 level of landscaping proposed on site is inconsistent with that of neighbouring properties along Surf Road. The proposed level of landscaped open space proposed is inconsistent with the desired character of the area.

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

Comment:

The site does not have any substantial topographical features such as rock outcrops and habitats for wildlife, nor does it propose to remove any indigenous vegetation.

- *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:

Insufficient landscaping is proposed to the rear or the front of the dwelling house to ensure a reasonable number of low lying shrubs, medium height shrubs and canopy trees can be planted on site to offset the bulk and scale of the dwelling house.

- *To enhance privacy between buildings.*

Comment:

While not solely relied on for privacy, insufficient landscaped open space is proposed to help offset privacy impacts between the subject site and neighbouring dwelling houses.

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

Comment:

The proposed development allows for suitable outdoor recreation opportunities for residents.

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

Comment:

The rainwater tank as proposed on the ground floor plan will not allow for suitable access from one end of the dwelling house to another on the southern side of the dwelling house.

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

Comment:

The proposal would allow for suitable drainage, subject to conditions imposed by Council's Development Engineers.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D6 Access to Sunlight

The submitted diagrams submitted by Jeff Karskens Designer (Dwg No. 5.01), illustrates a significant impact upon existing solar access to the adjoining southern property No. 44 Surf Road. However, the level of provided is insufficient to accurately assess the complete impact of the proposed development. Council cannot determine if 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.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D7 Views

As a result of the public exhibition of the development application Council received one submission (No. 40 Surf Road, North Curl Curl) raising view loss as a concern.

Merit consideration

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. 40 Surf Road, North Curl Curl

Views affected from this property are of the distant ocean filtered through existing development and parkland as shown below.



Photo 1- View from first floor bedroom



Photo 2- View looking south-east from ground floor terrace

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. 40 Surf Road, North Curl Curl

The views affected from this property are obtained over the side boundary from the first floor master bedroom to the rear portion of the property from a standing position. It should be noted that the views obtained from the sitting position are of a lesser value than those obtained in 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. 40 Surf Road, North Curl Curl

This property currently enjoys partial water views from the ground and first floor. The views are obtained from existing development and parkland to the east over the existing ridge line of the subject site. The views from the ground floor are from the terrace off the living room and from the first floor master bedroom. The primary views from the ground floor will be retained in full. The development will result in a moderate loss of water views currently enjoyed from the first floor master bedroom as the views in considerations of the views being distant and obscured.

In consideration of both views the extent of impact is considered to be moderate.

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 a minor variation to the height of buildings development standard under Clause 4.3 of the WLEP, and significant variations to the wall height, front and rear setbacks, and building envelope controls under the WDCP 2011.

In regards to the extent of view loss from the master bedroom of No. 40 Surf Road, it is noted that these views are from the first floor master bedroom and over a side boundary. Further, it is noted that even a compliant proposal in regards to height of buildings, wall height, setback and building envelope would result in same level of view loss to the water, nor will a more skilful design provide the same development potential and retain the existing view corridor. Water views from the master bedroom are still expected to maintain views to the lagoon. In consideration of this and given that views from the ground floor terrace are to be retained in full, the application is supported in merit in this instance.

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

Comment:

A more innovative design would not reasonably improve the loss of views from neighbouring development.

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

Comment:

There are no existing canopy trees proposed to be removed as part of this proposal.

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

D8 Privacy

Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

While it is acknowledged that in a dense urban environment, complete privacy is an unrealistic expectation, the proposed first floor balconies and windows to the rear of the property off bedroom 2 and 3 will have a direct view to the bedrooms and rear including outdoor living area of the adjoining western property (No. 17 Griffin Road, North Curl Curl). The balconies are proposed in conjunction with multiple outdoor living areas, including first floor balcony to the front of the property, ground floor balcony and alfresco ensuring multiple outdoor living areas are proposed on site. The visual privacy of these balconies is considered to be unreasonable and cannot be supported.

The proposed ground floor balcony is adequately set back from the adjoining property to the north.

The first floor terrace is located off a master bedroom. The terrace would result in a development which is unreasonable in regards to visual privacy. The difference in levels

between the subject site and adjoining properties combined with the proximity between outdoor living areas of adjoining properties leads to an unreasonable visual privacy impact, therefore, not satisfying this objective.

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

Comment:

The proposed first floor terrace to the front of the dwelling house relies on landscaped to afford the subject site and adjoining properties with privacy. The following is the Privacy Planning Principle established by the NSW Land and Environment Court in *Meriton v Sydney City Council* [2004] NSWLEC 313 at 45-46 and further developed with particular regard to the use of vegetation in *Super Studio v Waverley Council* [2004] NSWLEC 91 at 5-7.

"6 The second principle is that where proposed landscaping is the main safeguard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climatic conditions and good luck. While it is theoretically possible for a council to compel an applicant to maintain landscaping to achieve the height and density proposed in an application, in practice this rarely happens."

As such, the planter boxes to the southern and northern end of the terrace cannot be relied upon to screen sight lines between properties. The terrace which is setback from the northern and southern boundary is setback 1.4m, insufficient physical separation to the adjoining properties. It is considered that while conditioned screening to the terrace would minimise the visual privacy impact, the resultant bulk and scale would be unreasonable as viewed from the street. In summary, the proposal does not incorporate design solutions to minimise privacy impacts to adjoining properties.

Therefore, the proposal is inconsistent this objective.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal retains a open frontage to allow for passive surveillance.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP 2011 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported in this particular circumstance.

D9 Building Bulk

Merit consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The development proposes multiple variations to the built form controls of WDCP 2011, the design is not considered to be an appropriate response to the constraints on site. The combination of the non-compliances will have a significant impact on the overall height and bulk of the development and will have caused unreasonable amenity impacts, including privacy for adjoining properties.

Therefore, the proposal is inconsistent with this objective.

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

Comment:

The development proposes seeks to benefit from building a 3 storey dwelling house with swimming pool and multiple outdoor living areas. The site is inconsistent with a number of controls including wall height, setbacks and side boundary envelope within the Waringah DCP, which regulate bulk and scale and is considered unreasonable given neighbouring development within the street and the desired streetscape. Amenity impacts including solar access are also exacerbated by the resulting non-compliances of the proposal.

The encroachment of the side boundary envelope on the northern and southern side of the dwelling house extends the entire length of the upper floor, a length of 18.3m. While the upper storey has been increasingly setback from the ground floor, the level of articulation is not satisfactory and will unreasonably impact upon the amenity of the adjoining properties to the north and south. The proposed upper storey will appear overbearing/visually dominant when viewed from the street.

Therefore, the proposal is inconsistent this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

E11 Flood Prone Land

The subject site is located within the Medium Flood Risk Precinct as identified in the Curl Curl Lagoon Floodplain Risk Management Study (2005), and as such was referred to Council's flood officer for comment. The officer found that the proposed development does not comply with the WDCP 2011 and Flood Prone Land Design Standard.

Accordingly, this assessment finds that the proposal is not 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.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2018/1932 for the Demolition works and construction of a dwelling house including swimming pool on land at Lot 33 DP 5659,42 Surf Road, NORTH CURL CURL, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.3 Flood Planning of the Warringah Local Environmental Plan 2011.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B1 Wall Heights of the Warringah Development Control Plan.

5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B3 Side Boundary Envelope of the Warringah Development Control Plan.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B5 Side Boundary Setbacks of the Warringah Development Control Plan.
7. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B9 Rear Boundary Setbacks of the Warringah Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1 Landscaped Open Space and Bushland Setting of the Warringah Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D6 Access to Sunlight of the Warringah Development Control Plan.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D8 Privacy of the Warringah Development Control Plan.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause E11 Flood Prone Land of the Warringah Development Control Plan.

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

Signed



Maxwell Duncan, Planner

The application is determined on 06/06/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments