

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0076
----------------------------	-------------

<b>Responsible Officer:</b>	Phil Lane
<b>Land to be developed (Address):</b>	Lot 2 DP 1206790, 1 Pitt Road NORTH CURL CURL NSW 2099
<b>Proposed Development:</b>	Demolition and construction of a dwelling house
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Andrew John Gremmo Belinda Gaye Gremmo
<b>Applicant:</b>	Gremmo Homes Pty Ltd

<b>Application lodged:</b>	01/02/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	04/02/2019 to 20/02/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	5
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,260,000.00
---------------------------------	-----------------

### 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 Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D7 Views

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 1206790 , 1 Pitt Road NORTH CURL CURL NSW 2099
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Pitt Road.</p> <p>The site is regular in shape with a frontage of 11.195m along Pitt Road and a depth of 54.87m. The site has a surveyed area of 614.4m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates dwelling house with attached timber deck and outbuilding at the rear.</p> <p>The site has a slope of 13% from the north to south.</p> <p>The site has one tree located at the rear of the existing outbuilding and some exposed nature rock outcrops.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by single, double and three storey dwellings with associated outbuildings and landscaped gardens.</p>

Map:



## SITE HISTORY

**Development Application No. DA2018/1711** - Demolition works, and construction of a dwelling house, including a swimming pool was withdrawn due to concerns in relation to the following:

- Wall height and building bulk
- Rear setback
- Side boundary envelope
- Landscaping
- Views

## PROPOSED DEVELOPMENT IN DETAIL

### Demolition

The proposal involves the demolition of the following built structures:

- existing dwelling house
- deck
- retaining walls
- driveway
- outbuilding

### New Dwelling House

The proposal involves the construction of a new 2-3 storey dwelling house including a swimming pool, pool side shelter and decking as follows:

#### Lower Ground Floor Plan

- Bedroom 4
- Rumpus room
- Bathroom
- Gym
- Sub floor storage
- Terrace

#### Ground Floor

- Double garage
- Porch/entry
- Gallery
- Laundry
- Linen
- Bathroom
- Two (2) bedrooms
- Retreat
- Study
- Balcony

#### First Floor

- Living
- Kitchen with walk in pantry
- Study
- Powder room
- Master bedroom with walk in robe and en-suite
- Deck (rear) with operable roof

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

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

<b>Section 4.15 Matters for Consideration'</b>	<b>Comments</b>
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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) –	None applicable.

Section 4.15 Matters for Consideration'	Comments
Provisions of any planning agreement	
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&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. Additional information was requested in relation to compliance with Clause D1 Landscaping Open Space and Bushland Settings of the Warringah Development Control Plan 2011. A revised landscape plan was submitted from the applicant on 10 April 2019.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
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><b>(i) Environmental Impact</b> 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><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> 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 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable 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	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.

## 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 5 submission/s from:

Name:	Address:
Mr Nick Masters	42 Robertson Road NORTH CURL CURL NSW 2099
Mr Len Gruca	38 Robertson Road NORTH CURL CURL NSW 2099
Mrs Janice Langley Nita Page	44 Robertson Road NORTH CURL CURL NSW 2099
Christine Graham	4 Pitt Road NORTH CURL CURL NSW 2099
Robert Stephen Allan	3 Pitt Road NORTH CURL CURL NSW 2099

The following issues were raised in the submissions:

- Views
- Building Bulk
- Side boundary envelope
- Wall height
- Landscape open space
- Precedent
- Front setback/streetscape
- Solar panels
- Statement of Environmental Effects
- Final building height is surveyed
- Excavation
- Solar access
- Privacy

The matters raised within the submissions are addressed as follows:

- **Views**

Comment: A detailed analysis was undertaken from surrounding and adjoining properties, including a site inspection from all properties where Council received a submission. A detailed analysis was undertaken from No. 4 Pitt Road and No. 38 Robertson Road and site inspections were completed from No. 3 Pitt Road and Nos. 42 and 44 Robertson Road. Please refer to



assessment under Clause D7 Views section of this report.

In summary, the proposed dwelling is considered to satisfy Clause D7 Views and the view sharing principles (Four (4) point test) of Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140 and it is considered that the issues raised do not warrant refusal of the proposal. However, special conditions have been imposed which require a survey(s) at critical stages of the development to confirm the lowering in the height of the building, including the lower ground level, first floor level and the roof frame to ensure that the dwelling is constructed in accordance with the submitted plans.

- **Building Bulk**

Comment: Issues were raised in relation the visual bulk of the dwelling house, notably the length and height of the building. A review of the relevant built form controls of the Warringah Local Environmental Plan 2011 (WLEP 2011) and the Warringah Development Control Plan 2011 (WDCP 2011) was undertaken and it is noted that the proposal is compliant with the exception of Clause C3 Parking Facilities of WDCP 2011 in relation to the width of the garage exceeding 50% of the building. It is also noted that the side boundary envelopes on the eastern and western elevations are encroached by the eaves and the roof, but which are allowed as exceptions to the rule under Clause B3 Side Boundary Envelope of the WDCP 2011.

Issues were also raised concerning the southern elevation and a lack of stepping of the building as it rises with each progressive level of the building. A detailed review of the Eastern Elevation and Southern Elevation demonstrates that the dwelling steps back 2.8m and the balcony extends out on the first floor level.

Given the location of the site in relation to the Robertson Road properties to the east (in particularly Nos. 38, 40, 42 and 44 Robertson Road), and the additional concerns of privacy, the applicant has installed privacy screens. It is considered that screens will allow for adequate visual relief while ensuring satisfactory amenity to these properties to the east, thus ensuring general compliance with Clause D9 Building Bulk of the WDCP 2011.

Additionally, an amended landscape plan was received from the applicant on 10 April 2019 demonstrating compliance with Clause D1 Landscape Open Space and Bushland Settings of the WDCP 2011.

Given the above, it is considered that the proposed dwelling demonstrates sufficient articulation, relief and spatial separation from adjoining and surrounding dwellings to ensure compliance Clause D9 Building Bulk (WDCP 2011). It is considered that this issue does not warrant refusal and/or further amendment via condition(s).

- **Side Boundary Envelope**

Comment: Issues were raised stating the proposed dwelling is non-compliant with Clause B3 Side Boundary Envelope of the WDCP 2011. An assessment of the proposal, coupled with detailed plans submitted with the current application, demonstrates compliance with this control, with the exception of the eastern and western elevations where there is encroachment by the eaves and the roof, which are allowed as exceptions.

Given the above, it is considered that the proposed dwelling demonstrates compliance with Clause B3 Side Boundary Envelope of the WDCP 2011 and that this issue does not warrant refusal and/or further amendment via condition(s).

- **Wall Height**

Comment: Issues were raised stating the proposed dwelling is non-compliant with Clause B1 Wall height of the WDCP 2011. An assessment of the proposal, coupled with detailed plans submitted with the current application, demonstrates compliance with this control. It is noted that the clerestory windows within the roof section at the rear section of the building are not considered to form part of the wall height of the dwelling.

Given the above, it is considered that the proposed dwelling demonstrates compliance with Clause B1 Wall height of the WDCP 2011 and that this issue does not warrant refusal and/or further amendment via condition(s).

- **Landscape Open Space**

Comment: Issues were raised that the proposed landscaped open space is non-compliant. It is noted that the Landscape Plan submitted with the application purported to provide 245.2sqm (39.95%) as LOS. This issue was raised with the applicant and the owner submitted an amended Landscape Plan on 10 April 2019 addressing this issue, with a confirmed LOS of 247.6sqm (40.3%), which complies.

Given the above, it is considered that the proposal development demonstrates compliance with Clause D1 Landscape Open Space and Bushland settings of the WDCP 2011 and that this issue does not warrant refusal and/or further amendment via condition(s).

- **Precedent**

Comment: Issues were raised that approval of the proposed development would set a precedent within the area. The suburb of North Curl Curl and in particular Pitt Road, Robertson Road and Taylor Street has a significant number of larger dwelling houses with associated structures (swimming pools etc.) with landscaped gardens. It is noted that this proposal will have an excavated level (Lower Ground Floor) which will be the base for the dwelling and the upper levels will be sit above this level (Ground Floor and First Floor).

The dwelling will be located slightly forward (2.57m) and at the rear the first floor part of the dwelling (3.3m) of No. 3 Pitt Road. The dwelling conforms to the building height, wall height, side boundary envelope, side setback, front boundary setback, rear boundary setback and landscape open space controls of the WLEP 2011 and WDCP 2011. Given the scale, size and predominant nature of the existing housing stock in this locality, it is considered that the dwelling and development will be compatible with surrounding dwellings in the locality and will not set a precedent.

Given the above, it is considered that the proposal development is compliant with the relevant built form controls of the WLEP 2011 and WDCP 2011 and that this issue does not warrant refusal and/or further amendment via condition(s).

- **Front Setback and Streetscape**

Comment: As stated above, the dwelling is located slightly forward of the dwelling at No. 3 Pitt Road by 2.57m, however, it demonstrates compliance with the front boundary setback control of 6.5m (Clause B7 Front Boundary Setback of the WDCP 2011) with a setback of 6.631m.



The dwelling from the front southern elevation will appear as a two storey dwelling house which is articulated, modulated, spatial separated from the adjoining dwellings and has varying setbacks with landscaped elements (first floor level) ensuring the proposal demonstrates compliance with the front setback, while addressing the streetscape. It is noted that it is non compliance with Clause C3 Parking Facilities of the WDCP 2011 due to the width of the garage exceeding 50% of the width of the building. However, it is considered that the requirement of two (2) vehicles on site is sufficient grounds coupled with the design that a variation to this merit consideration and clause can be supported in this instance.

Given the above, it is considered that the proposal development is compliant with the relevant built form controls of the WLEP 2011 and WDCP 2011 and that this issue does not warrant refusal and/or further amendment via condition(s).

- **Solar Panels**

Comment: Issues were raised about the installation of solar panels on the roof of the dwelling and possible impacts of glare/reflection and possible impacts on views. A detailed review of the plans, particularly in relation to the roof plan demonstrates that are no solar panels to be installed as part of this application.

- **Statement of Environmental Effects (SEE)**

Comment: Issues were raised about comments/statements within the SEE, particularly in relation to D7 Views where it is stated that "*No loss of views is anticipated*". It is agreed that the statement is incorrect. A detailed View Sharing/Loss Assessment was completed by the assessment officer in relation to surrounding and adjoining properties, and it is noted and acknowledged, that there will be some degree of view loss caused by the proposed development. It is noted that a SEE forms a part of application which is required to address the impacts from the applicants point of view. Only a full and detailed assessment of the Development Application by the assessment officer will ensure a comprehensive analysis is undertaken and completed to ensure a satisfactory outcome.

- **Final Building Height is Surveyed to ensure Compliance**

Comment: Concerns were raised about the completed height of the building (RL44.634) being as per any approved plans. A condition will be included to ensure the approved height is complied with, including a survey of the lower ground floor level, first floor level and roof frame (prior to the installation of roof) to ensure the proposal is consistent and compliant with the plans (if approved).

- **Excavation**

Comment: Concerns were raised about the depth and amount of excavation from the site for the proposed dwelling. The proposed depth is 3.4m and the site has been investigated by the applicants Geo technical Engineers with the appropriate reports/assessments and recommendations to ensure the protection of not only the site but that of surrounding properties/dwellings.

It is considered that, given the depth of the excavation and the medium strength rock that is expected to occur at shallow depths [subsurface investigation (auger holes) with results varying from Nil - 1.1m depth according the Geotechnical Investigation by White Geotechnical Group], that a dilapidation survey of the adjacent buildings (No. 3 Pitt Road and No. 38 Robertson Road) be required through conditions and that the recommendations within the assessment by the

Geotechnical Engineer are undertaken to ensure the structural stability and safety.

Given the above, it is considered that subject to the above recommendations and condition(s) that the proposal will have minimal impacts on the adjoining and surrounding properties.

- **Solar Access**

Comment: A number of issues and concerns were raised about solar access for adjoining properties, particularly as this site runs north/south from Pitt Road and the adjoining properties to the east facing Robertson Road (Nos. 38 - 40 Robertson Road) have their private open space adjoining the subject site. A review of the solar access diagrams submitted with the application demonstrates that the solar access to No. 3 Pitt Road will be impacted in the morning hours from 9.00am to 12.00pm and after that time, it will be in compliance. The solar access to the properties to the east (Nos. 38, 40, 42 and 44 Robertson Road) will be impacted from 12.00pm to 3.00pm, however will not be impacted during the morning hours (9.00am - 12.00pm) by the proposed dwelling,

Given the above, it is considered that the proposal will demonstrate compliance with Clause D6 Access to Sunlight in accordance with the WDCP 2011 and that this issue does not warrant refusal and/or further amendment via condition(s).

- **Privacy**

Comment: Issues were raised in relation to privacy for adjoining properties to the east and west of the subject property. The adjoining property to the west (No. 3 Pitt Road) had concerns about privacy from the upper balcony on the first floor level on the western elevation. The balcony on the western elevation contains a proposed glass screen running on top of the balustrade for the full length of balcony. A condition will be included that the first three (3) panels adjacent to the dwelling to treated with obscured/frosting to ensure reasonable amenity of both parties.

Issues were raised by the neighbouring properties on the eastern side about the proposed glazing on the eastern elevation, in particular the bank of six (6) windows (W03) adjacent the gallery (on the ground floor) and stairwell (on the first floor). These windows will be conditioned to be obscured/frosted glazing. Additionally, the bank of three (3) windows on the ground floor at the rear (adjacent to the retreat) and the bank of three (3) windows (W21 and W22) on the first floor adjacent to the living room will be conditioned to be obscured/frosted glazing.

It is noted that a privacy screen will run the length on the eastern elevation of the deck on the first floor level ensuring reasonable amenity for the adjoining properties to the east (Robertson Road). It is noted that the property at No. 44 Robertson Road will meet this development at a junction point due to their respective locations (i.e. subject site running north/south and No. 44 Robertson Road running east/west).

During a number of site inspections, it is considered that the situation has been the case for decades due to the configuration of the allotments (Robertson Road properties backing onto the subject site - No. 1 Pitt Road) and it is considered that the applicant has taken reasonable steps, as well as the recommended condition(s), to maintain reasonable amenity of all parties.

Given the above, it is considered that subject to the condition(s) as mentioned above and contained in the recommendation attached to this report, including the measures already incorporated within the proposed development, there will be a satisfactory level of amenity between the proposed development and the adjoining and surrounding properties and that this issues does not warrant refusal subject to condition(s).

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following condition of consent.

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.968582S\_02 dated 19 January 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0003240025-02 dated 19 January 2019).

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

Commitment	Required Target	Proposed
Water	40	42

<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	52

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.

## **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:

10 Development on certain land within coastal wetlands and littoral rainforests area

"(1) The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:

- (a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
- (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
- (c) the carrying out of any of the following:
  - (i) earthworks (including the depositing of material on land),
  - (ii) constructing a levee,
  - (iii) draining the land,
  - (iv) environmental protection works,
  - (d) any other development."

Comment: Not applicable to the site.

#### 11 Development on land in proximity to coastal wetlands or littoral rainforest

"(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest."

Comment: Not applicable to the site.

#### 12 Development on land within the coastal vulnerability area

"Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- (b) the proposed development:
  - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
  - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
  - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazard."

Comment: At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified.

Not applicable.

#### 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 proposed works are unlikely to cause an adverse impact upon the matters identified in this clause. The proposal is located wholly within the subject site and does not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

"(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 has been designed in such a way that it satisfies the relevant matters identified in this clause.

#### 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 proposal does not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected and the surrounding area consists of examples of similar developments.

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	7.6m	N/A	Yes
----------------------	------	------	-----	-----

#### Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires consent	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 6 Additional Local Provisions	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

#### **Warringah Development Control Plan**

##### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.4m	N/A	Yes
B3 Side Boundary Envelope	5.0m (west)	Within envelope*	N/A	Yes
	5.0m (east)	Within envelope*	N/A	Yes
B5 Side Boundary Setbacks	0.9m (west)	0.95m	N/A	Yes
	0.9m (east)	1.255m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.631m	N/A	Yes
B9 Rear Boundary Setbacks	6.0m (dwelling)	20.009m	N/A	Yes
	50% (outbuildings)	2.0m & 42.4%	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (245.8sqm)	40.3% (247.6sqm)	N/A	Yes

\* Minor encroachment by the eaves and the roof (allowable encroachments)

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Part C Siting Factors	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 Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
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
Part E The Natural Environment	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

### **C3 Parking Facilities**

#### Description of Non-compliance

*"Council's DCP controls requires a garage door to have a maximum width of 6m or 50% of the dwelling width, whichever is the lesser. The proposed dwelling provides for a garage which is 5.39m or 59.96%, which exceeds the lesser control of 50%. This is in large due to the small lot width, and width of the dwelling being 8.99m. The double garage extends across 48.5% of the site and requires a minor variation of 895mm to allow for appropriate access into the garage."*

#### 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 adequate off street carparking.*

#### Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/- )
Dwelling House	2 spaces per dwelling	2	2	Nil

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment: The applicant addressed the variation in the SEE as follows:

*"The proposed garage remains compatible with other developments within the street, and the high level of articulation provided to the front façade will ensure the garage is not a dominate feature. It is not anticipated that the garage will dominate the dwelling or create a visual impact on the streetscape. The garage is considered to be in context to the overall scale of the dwelling and the provision of adequate design features within the front façade ensures the garage is not a dominant feature. The overall high quality design of the front entry and articulation elements work to integrate the proposed garage into the overall design."*

Having regard to the above comments, it is considered that the proposed garage is suitably sited, has sufficient setbacks to the streetscape and the proposed design, articulation and spatial separation is such that it will ensure compliance with this merit consideration.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment: The proposed garage is considered to be well integrated with the design of the dwelling, demonstrating sufficient relief to the street coupled with satisfactory levels of articulation and landscaped elements, it is considered that the proposal will ensure compliance with this merit consideration.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/WDCP 2011 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.

## **D7 Views**

### Merit Consideration

View loss was raised as a concern by the owners of the following properties:

- 4 Pitt Road
- 38 Robertson Road
- 42 Robertson Road
- 44 Robertson Road

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:

### **4 Pitt Road**

Comment: A site inspection was undertaken from this property, which is a two storey dwelling house located on the northern side of Pitt Road. The dwelling currently has water views due to the location/height of the building and the site is elevated above the southern side of Pitt Road. The view is obscured by existing vegetation and existing dwellings which are located to the south.

### **38 Robertson Road**

Comment: A site inspection was undertaken from this property, which is a part single and double storey dwelling house located at the intersection of Robertson Road and Pitt Road (south-west corner). The dwelling currently has water views due to the location/height of the building and the site is elevated. The view is obscured by existing vegetation and existing dwellings which are located to the south. The views to the west and south-west are of the Greendale Creek and district views of John Fisher Park.

### **42 Robertson Road**

Comment: A site inspection was undertaken from this property, which is a single storey dwelling house located at the western low side of Robertson Road. The dwelling currently has views which are obscured by existing vegetation and existing dwellings which are located to the west and south-west of the Greendale Creek and district views of John Fisher Park.

#### **44 Robertson Road**

Comment: A site inspection was undertaken from this property, which is a double storey dwelling house located at the western low side of Robertson Road. The dwelling currently has water views due to the location/height of the building. The view is obscured by existing vegetation and existing dwellings which are located to the south. The views to the west and south-west are of the Greendale Creek and district views of John Fisher Park.

### **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:

#### **4 Pitt Road**

Comment: The view is achieved over the southern front boundary from a standing and sitting position.

#### **38 Robertson Road**

Comment: The view is achieved over the western and southern side boundary from a standing and sitting position.

#### **42 Robertson Road**

Comment: The view is achieved over the western rear boundary from a standing and sitting position.

#### **44 Robertson Road**

Comment: The view is achieved over the western rear boundary and southern side boundary from a standing and sitting 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:

**4 Pitt Road**

Comment: The view is achieved over the southern front boundary from a standing and sitting position from the lounge/living room and from the kitchen to the rear portion of the first floor.

**38 Robertson Road**

Comment: The view is achieved over the western and southern side boundaries from a standing and sitting position from the lounge/living room and the kitchen of the first floor.

**42 Robertson Road**

Comment: The view is achieved over the western rear boundary from a standing and sitting position. A external assessment of the dwelling was undertaken from the rear deck which at the same level as the living areas within the dwelling house (single storey).

**44 Robertson Road**

Comment: The view is achieved over the western rear boundary and southern side boundary from a standing and sitting position from the lounge/living room and the kitchen and rear balcony on the first floor.

**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:

**4 Pitt Road**

Comment: As stated above, the view is achieved over the southern front boundary from a standing and sitting position from the lounge/living room and from the kitchen to the rear portion of the first floor. The view loss is assessed as **minor** given the proposed dwelling is compliant with the relevant controls of the WLEP 2011 and WDCP 2011, the view is obscured by existing vegetation and buildings. It is noted that views of Curl Curl Beach (including the interface with the ocean), views of Manly, headland views including iconic views of St Patricks Cathedral will be maintained.

Given the above, it is considered that view sharing is reasonable.

**38 Robertson Road**



Comment: As stated above, the view is achieved over the western and southern side boundaries from a standing and sitting position from the lounge/living room and the kitchen of the first floor. The view loss is assessed as **minor/moderate** given the proposed dwelling is compliant with the relevant controls of the WLEP 2011 and WDCP 2011. It is noted that views will be lost of Curl Curl Lagoon/Greendale Creek and John Fisher Park, however views of Curl Curl Beach (including the interface with the ocean), views of Manly, headland views and partial iconic views of St Patrick Cathedral will be maintained.

Given the above, it is considered that view sharing is reasonable.

#### **42 Robertson Road**

Comment: The view is achieved over the western rear boundary from a standing and sitting position. A external assessment of the dwelling was undertaken from the rear deck which at the same level as the living areas within the dwelling house (single storey). The view loss is assessed as **minor to moderate** given the proposed dwelling is compliant with the relevant controls of the WLEP 2011 and WDCP 2011. It is noted that some views will be lost of Curl Curl Lagoon/Greendale Creek and John Fisher Park, however views of these area will be maintained to the southwest.

Given the above it is considered that view sharing is reasonable.

#### **44 Robertson Road**

Comment: As stated above, the views are achieved over the southern side boundary and rear western boundary from a standing and sitting position from the lounge/living room and from the kitchen of the first floor. The view loss is assessed as **negligible to minor** given the proposed dwelling is compliant with the relevant controls of the WLEP 2011 and WDCP 2011. It is noted views of Curl Curl Lagoon/Greendale Creek, John Fisher Park and Curl Curl Beach (including the interface with the ocean) will be maintained.

Given the above, it is considered that view sharing is reasonable.

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

Comment:

The proposal demonstrates innovative design solutions to ensure the overall proposal will improve the urban environment.

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

Comment:

The proposal will be sited below the existing canopy trees within the vicinity, ensuring compliance with this merit consideration.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/WDCP 2011 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.

## 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

### Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 1,260,000		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 11,970
Section 7.12 Planning and Administration	0.05%	\$ 630
Total	1%	\$ 12,600

## 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 DA2019/0076 for Demolition and construction of a dwelling house on land at Lot 2 DP 1206790, 1 Pitt 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
N01	18 December 2018	Urban Harmony
N02 Elevs 1	18 December 2018	Urban Harmony
N02 Elevs 2	18 December 2018	Urban Harmony
DA2 Site Plan & Elevations	18 December 2018	Urban Harmony
DA2 Floor Plans 1	18 December 2018	Urban Harmony
DA2 floor Plans 2	18 December 2018	Urban Harmony
DA2 Sections	18 December 2018	Urban Harmony
BASIX	18 December 2018	Urban Harmony
Demolition Plan	18 June 2018	Summit Geomatic
External Finishes	August 2018	Gremmo Homes

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
1 Pitt Road North Curl Curl	30 January 2019	White Geotechnical Group
Geotechnical Investigation	17 October 2018	White Geotechnical Group

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L 100 F (Revision F)	10 April 2019	Grant Clement Landscape Architect & Pool Designer
L 101 F (Revision F)	10 April 2019	Grant Clement Landscape Architect & Pool Designer

<b>Waste Management Plan</b>	
<b>Drawing No/Title.</b>	<b>Prepared By</b>
Demolition Waste Management Plan	Gremmo Homes

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.

## 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

### 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) 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.

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 1,260,000.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 11,970.00
Section 7.12 Planning and Administration	0.05%	\$ 630.00
Total	1%	\$ 12,600.00

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 Contributions Plan 2018.

### 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.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

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

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

### 6. **Stormwater Disposal from Low Level Property**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's "[DELETE ONE – PITTWATER DCP21, WARRINGAH WATER MANAGEMENT POLICY PL850]. Warringah Water Management Policy PL 850" in particular the Stormwater Drainage from Low Level Properties Technical Specification. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's "Warringah Water Management Policy PL 850" are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

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

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850 and the concept drawing by Engineering Studio, drawing number 18659 dated Sep 2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

### 8. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850 and the concept drawing by Engineering Studio, drawing number 18659 dated Sep 2018.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer. The drainage plans must address the following:

- i) The atlantis cells shall not be used as the storage tank.

Detailed drainage plans, including engineering certification confirming the above requirements

have been satisfied and complying with Council's requirements, are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.  
Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

9. **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 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

10. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

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.

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. Any roof with a metallic steel finish is 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.

13. **Obscured Glazing - Eastern Elevation Windows and Western Elevation Panels on First Floor Deck**

The windows on ground and first floor (W03) adjacent to the stairwell, (W07) adjacent to the retreat on the ground floor and (W21 & W22) adjacent to the living room on the first floor are to be either permanently frosted and/or treated with obscured glazing /treatment to ensure privacy

and amenity of the adjoining properties to the east (Nos. 38, 40, 42 and 44 Robertson Road, North Curl Curl).

Additionally, the first three (3) glazed panels on the deck adjacent to the kitchen/living room on the first floor on the western elevation are to be either permanently frosted and/or treated with obscured glazing /treatment to ensure privacy and amenity of the adjoining property to the west (No. 3 Pitt Road, North Curl Curl).

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

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

14. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

15. **Dilapidation Survey**

A dilapidation survey of adjacent buildings (No. 38 Robertson Road and No. 3 Pitt Road, North Curl Curl) must be conducted prior to any site work. The lateral extent of the survey must cover the likely "zone of influence" of any excavation or construction induced vibration. The survey must be properly documented. The dilapidation report must be submitted to Council and the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Proper management of records.

## 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.

17. **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.

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

### 18. **Vehicle Crossings**

The provision of one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/5 EL and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

### 19. **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.

### 20. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) At lower ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (b) At first ground level to ensure the finished floor levels are in accordance with the approved levels, prior to flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans. (DACPLE01)

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

### **21. Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry 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.

### **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.

### **23. 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.

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)

### **24. Positive Covenant and Restriction as to User 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 at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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 at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches 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 the on-site detention and/or pump system is maintained to an appropriate operational standard.

25. **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)

26. **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)

27. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

- (e) Signage showing resuscitation methods and emergency contact
- (f) All signage shall be located in a prominent position within the pool area.
- (g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life (DACPLF09)