

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0392
<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 14 DP 13900, 26 Parr Avenue NORTH CURL CURL NSW 2099
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including secondary dwelling
<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>	Ian Michael Haines Narelle Lesley Moss
<b>Applicant:</b>	AMDE Construction
<b>Application lodged:</b>	16/04/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	02/05/2019 to 16/05/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 781,727.00

### 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 - B1 Wall Heights

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D8 Privacy

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 14 DP 13900 , 26 Parr Avenue NORTH CURL CURL NSW 2099
<b>Detailed Site Description:</b>	<p>The subject land is legally described as lot 14 in Deposited Plan 13900, and is known as 26 Parr Avenue, Curl Curl. The property is located within the R2 Low Density residential zone.</p> <p>The site is a rectangular shaped corner lot with an area of 574.4m<sup>2</sup>. The property has a frontage of 17.21 metres to Parr Avenue, and 35m to Playfair Road.</p> <p>The site has a moderate cross fall towards the front south eastern corner of the site.</p> <p>The site is currently occupied by a single storey brick rendered dwelling, rear fibro garage and swimming pool.</p> <p>Surrounding sites consist of one, two and three storey dwelling houses, of varying ages within landscaped settings.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant development applications:

- Development Application DA2003/0737 for alteration and addition to an existing dwelling, and the demolition of a laundry, and construction of a new kitchen and internal alterations was withdrawn from Council on the 1 September 2003.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal includes the demolition of existing structures on the site and the construction of a new two (2) storey dwelling house, including an attached secondary dwelling.

The proposal includes the following works:

### Primary Dwelling Ground Floor

- Entry
- Double garage
- Open dining/lounge and kitchen room
- Living room
- Laundry
- Bathroom
- Butlers room
- Outdoor alfresco area

### Primary Dwelling First Floor

- Three (3) bedrooms including master bedroom with ensuite and walk in wardrobe
- Living room
- Bathroom

### Secondary dwelling (56sqm)

- Open dining/living
- Kitchen
- Bedroom
- Study
- Bathroom
- Porch

### External

- Landscaping
- New driveway

## 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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
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. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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>(i) <b>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>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>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 2 submission/s from:

Name:	Address:
Stephen Gregory Hislop	8 Playfair Road NORTH CURL CURL NSW 2099
Mr Mathew Robert Savage Mrs Margaret Joan Savage	6 Playfair Road NORTH CURL CURL NSW 2099

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

- View Loss

The matters raised within the submissions are addressed as follows:

- ***Concern was raised in regards to view loss from Numbers 6 and 8 Playfair Road as a result of the first floor of the new dwelling house.***

Comment:

Concern has been raised that the first floor of the dwelling house will create unreasonable view loss. It is important to note that the provision of views, particularly from 8 Playfair Road, is extremely vulnerable to any form of two storey development on this property as the view lines are across the subject site.

A view loss assessment concluded that no breach of the planning controls gives rise to the aforementioned view loss of ocean water, Curl Curl Lagoon or Griffith Park.

However, it is determined that the scale of development proposed could be reduced to preserve more of the existing outlook and whilst providing the same level of development potential on the site. Imposed conditions to further reduce the roof pitch from 15 degrees to 13 degrees (reduction from RL40.150 to RL39.977), and the reduction of the wall height provide greater levels of view sharing, and maintains a reasonable view sharing corridor.

Given the above, it is considered that the conditioned proposal and consequent view loss is reasonable in this circumstance.

In summary, the assessment found that the conditioned development complied with the requirements of view sharing did not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to



Internal Referral Body	Comments
	inclusion of the attached conditions of approval and consideration of the notes below.  Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Landscape Officer	The Development Application 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 conditions 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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental

housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

## Division 2: Secondary dwellings

### Clause 19: Definition

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

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

**Note:** The standard instrument defines secondary dwelling as follows:

**"secondary dwelling means a self-contained dwelling that:**

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

### Comment:

The proposed use is defined under WLEP 2011 as "secondary dwelling " and satisfies this definition.

### Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	<b>Consistent.</b> The site is located within the R2 Low Density Residential zone and, as such, the proposed use is permissible with consent under WLEP 2011.

### Clause 21: Development to which this Division applies

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

### Clause 22: Development may be carried out with consent

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

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there	The site contains a single dwelling house and the proposed secondary dwelling is attached to the



is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	dwelling house.
<p>(3) A consent authority must not consent to development to which this Division applies unless:</p> <p>(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and</p> <p>(b) the total floor area of the secondary dwelling is no more than 60m<sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.</p>	<p>The floor area is 56sqm, this figure complies with the requirement for a secondary dwelling.</p> <p>There is two (2) parking spaces to be provided on the site.</p>
<p>(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:</p> <p>(a) site area if:</p> <p>(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or</p> <p>(ii) the site area is at least 450 square metres.</p> <p>(b) parking if no additional parking is to be provided on the site.</p>	<p>This application does not propose any subdivision of the existing allotment.</p>

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

#### Clause 24: No subdivision

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

#### Conclusion

The proposal satisfies the assessment criteria and requirements for approval under SEPP ARH.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 995738M and 27 March 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 995738M and 27 March 2019).

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

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

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

### Warringah Local 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	Complies
Height of Buildings:	8.5m	8.4m	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
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Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	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 - 7.4m	up to 3%	No
B3 Side Boundary Envelope	5m North	No encroachment	-	Yes
	5m East	Diminishing triangle up to 0.5m for a length of 5.7m	10%	No
B5 Side Boundary Setbacks	0.9m North	12.6m Dwelling 9.4m Alfresco	- -	Yes Yes
	0.9m East	1.1m - 1.6m Dwelling 2.07m Porch	- -	Yes Yes
B7 Front Boundary Setbacks	6.5m Parr Street	6.6m Porch 8.85m Dwelling	- -	Yes Yes
B7 Secondary Front Boundary Setbacks	3.5m Playfair Road	3m Dwelling Ground Floor 4.3m First Floor	14.2% -	Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	46% 275.73sqm	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	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
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B1 Wall Heights**

##### Description of non-compliance

The development achieves a maximum 'wall height' of 7.4m, contravening the 7.2m control by up to 3%.

However, conditions will be imposed that require the floor to ceiling height of the ground floor to be reduced by 0.34m, and for the first floor by 0.15m. This will provide an over reduction of 0.49m in the wall height. Therefore, the maximum wall height is now compliant at 6.91m.

Therefore, the proposal demonstrate a compliant wall height and the proposal will not create any unreasonable impacts by virtue of height, scale and setbacks and is generally compatible with the existing streetscape and lay of the adjacent properties.

#### **B3 Side Boundary Envelope**

The development exhibits a non-compliance to the side boundary envelope along the top of the northern elevation.

The non-compliant area includes the following:

- Eastern - Encroachment in the shape of a diminishing triangle for a height of up to 0.5m and for a length of 5.7m.

However, an imposed condition to reduce the floor to ceiling height of both the ground floor and first floor will reduce the maximum wall height to 6.91m.

The conditions will remove the eastern side boundary encroachment, and the proposal will be compliant with the side boundary envelope control

The removal of the variation will ensure the proposal will not become visually dominant by virtue of its height and bulk and demonstrates consistency with the surrounding sites.

## **B7 Front Boundary Setbacks**

### Description of non-compliance

The primary front setback to Parr Street is compliant with the 6.5m front setback control. The proposal demonstrates a setback of 6.6m to the dwelling house porch and 8.85m to the dwelling house.

The dwelling house demonstrates a variation to the secondary front setback to Playfair Road. The proposed ground floor displays a variation to the secondary front setback at 3.0m and the first floor is complying with a larger setback of 4.3m. Therefore, the first floor complies with the secondary front setback, consequently the ground floor variation will be assessed below.

### Merit consideration:

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

- *To create a sense of openness.*

#### Comment:

The dwelling house will retain a sense of openness as the variation is minor, and the building is well designed with steps both on the southern and western front setback elevations, open balcony areas, and changes in materials that provide sufficient articulation and visual breaks in the building.

Thus, the dwelling house and conditioned carport will not impact upon the sense of openness in the primary or secondary front setback areas.

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

#### Comment:

The new primary front facade of the dwelling house are compliant with the front setback control, with the ground floor creating the minor variation.

The secondary setback is consistent with the non-compliant secondary setbacks of neighbouring dwelling houses, being No.28, 39 and 37 Parr Ave.

The visual impact of the first floor of the dwelling house when viewed from public places will be acceptable given the satisfactory level of articulation of the resultant built form, including recessive building elements and high quality external materials and finishes. The noncompliance will also be partially screened from the public domain by the existing vegetation and boundary fencing.

Therefore, the visual continuity and pattern of buildings and landscape elements which characterise the Parr Ave and Playfair Road streetscape will be maintained and this objective is achieved.

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

Comment:

The alterations to the primary front facade of the dwelling house are compliant, with the proposed secondary front setback being designed sympathetically with the new dwelling house.

The ground floor of the dwelling house will improve the facade and carparking arrangement onsite and is consistent with the two storey residential character in the streetscape.

The visual quality of the Parr Ave and Playfair Road streetscape will be maintained by a satisfactory level of articulation of the resultant built form, including recessive building elements and high quality external materials and finishes.

- *To achieve reasonable view sharing.*

Comment:

The proposed variation to the front secondary setback will not result in any loss of views currently enjoyed from adjoining properties.

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

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.

Two submissions were received, that raised concern regarding view loss. The submissions were received from the following nearby properties:

- 6 Playfair Road, North Curl Curl
- 8 Playfair Road, North Curl Curl

The relevant section of the submission that related to view loss for 6 Playfair Road reads as follows:



*"The direction we are currently able to enjoy our views is to the South East, however the proposed development's roof ridgeline would then be directly in line with this path."*

The relevant section of the submission that related to view loss for 8 Playfair Road reads as follows:

*"This development will substantially reduce our view of the ocean, in fact it will almost obscure it 100% from our front dining room , living room, home office and front verandah."*

A site visit for view loss was undertaken on Monday 27 May, 2019, 13 June 2019 and again on the 17 July, 2019.

A portable height pole was erected to demonstrate the approximate building line, and therefore visually see the potential view loss impact.

### 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:

##### *6 Playfair Road, North Curl Curl*

Due to the elevated position when compared to the subject site, the objector's elevated one storey property currently enjoys views to the south-east, and to the south of North head, the ocean and horizon, Griffith Park and Curl Curl Lagoon.

As determined from the objector's property, the views that are subject to be affected consequent of this development are Curl Curl Lagoon, Griffith Park, ocean and horizon views. Views to Manly Northhead are unaffected by the proposal.

The land/water views from the key front vantage points (on the front balcony, dining area, kitchen, living room and bedroom) consist of water/land views to the south-east (Curl Curl Lagoon, ocean and horizon) and Griffith Park to the south east. The views of the ocean water and land water interface are considered to be partial because they are obstructed in places by existing dwelling houses and tree vegetation.

##### *8 Playfair Road, North Curl Curl*

Due to the elevated position when compared to the subject site, the objector's two storey property currently enjoys views to the south-east, and south. As determined from the objector's property, the views that are subject to be affected consequent of this development are Curl Curl Lagoon, Griffith Park, ocean and horizon views. Views to Manly Northhead are also available, however they are unaffected by the proposal.

The land/water views from the key front vantage points (on the front balcony, dining area, kitchen, living room and study) consist of obstructed ocean water views from the south east water/land views to the south-east (Curl Curl Lagoon, ocean and horizon and Griffith Park) to the south east. The views of the ocean water and land water interface are considered to be partial because they are obstructed in places by existing dwelling houses and tree vegetation.

## 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:

#### *6 Playfair Road, North Curl Curl*

Views are primarily obtained over the subject site existing roof line from a standing position and sitting position from all front areas of the elevated, one storey dwelling house. The views are from the elevated ground floor front terrace area, the kitchen, dinning, lounge area, and bedroom.

The views are across the side boundary (to the southeast). The views are from both a standing and sitting position as demonstrated in figures below with the height pole.





**Figure 1.** Lounge Room from standing position

**Figure 2.** Bedroom from standing position

**Figure 3.** Balcony from standing position

*8 Playfair Road, North Curl Curl*

Views are primarily obtained over the subject site existing roof line from a standing position and sitting position from all front areas of the elevated, two storey dwelling house. The views are from the elevated ground floor front balcony area, the dining, lounge area, study and second storey front balcony.

The views are across the side boundary (to the southeast). The views are from both a standing and sitting position as demonstrated in the figures below with the height pole.



**Figure 4.** Ground floor Front Balcony from standing position



**Figure 5.** Ground Floor Front Balcony from 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:

##### *6 Playfair Road, North Curl Curl*

Given the architecture of the Objector's home, ocean water, Curl Curl Lagoon and Griffith Park views are obtained from all front facing windows, doors and balcony areas. The views diminish as you move further into the dwelling.

Most predominantly, the views are enjoyed from the front balcony, living room, dinning room, kitchen and bedroom. When looking over the side south-east boundary there is an impact on the Curl Curl Lagoon and Griffith Park views from both a sitting and standing position.

However the ocean and horizon views (including view of Manly North Head) over the south eastern side boundary are unaffected.

The extent of impact from these areas is considered minor due to the impact on the Curl Curl Lagoon and Griffith Park views.

##### *8 Playfair Road, North Curl Curl*

Given the architecture of the Objector's home, water and Griffith Park views are obtained from all front facing windows, doors and balcony/terrace areas. The views diminish as you move further into the dwelling.

Most predominantly, the views are enjoyed from the ground floor front balcony, living room, dinning room, kitchen and study. When looking over the side south-east boundary there is an impact on the Curl Curl Lagoon and Griffith Park views from both a sitting and standing position.

However, all views obtained from the secondary floor balcony area are unaffected by the proposal. The ocean and horizon views (including view of Manly North Head) over the south eastern and southern side boundary are also unaffected from the second floor balcony and the front setback area.

The extent of impact from these areas is considered moderate due to the impact on ocean, Curl Curl Lagoon and Griffith Park from the ground floor area.

### 4. Reasonableness of the proposal that is causing the impact

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the*



*views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

Comment to Principle 4:

The proposal is beneath the maximum permissible Height of Buildings pursuant to Cl. 4.3 of the WLEP 2011, and it is important to note that the provision of views, particularly from 8 Playfair Road, is extremely vulnerable to any form of two storey development on this property.

Of relevance to view sharing, the development has been found to exhibit a non-compliance with the B1 Wall Height and the B3 Side Boundary Envelope built form control. However, imposed conditions to reduced the floor to ceiling height will remove the both the B1 Wall Height and eastern B3 Side Boundary Envelope non-compliance. Consequently, there are no contraventions that give rise to any unreasonable view loss.

It is therefore concluded that no breach of the planning controls gives rise to the aforementioned view loss of ocean water, Curl Curl Lagoon or Griffith Park.

Whilst there is a loss of views from the ground floor of 8 Playfair Road, it is important to note that preserving the existing outlook would restrict the proposal to a single storey development.

However, it is determined that the scale of development proposed could be reduced to preserve more of the existing outlook and whilst providing the same level of development potential on the site. Imposed conditions to further reduce the roof pitch from 15 degrees to 13 degrees (RL40.15 to RL39.977), and the reduction of the wall height provide greater levels of view sharing, and maintains a reasonable view sharing corridor.

Given the above, it is considered that the conditioned proposal and consequent view loss is reasonable in this circumstance.

Conclusion

The current view lines are extremely vulnerable to any form of two storey development on these properties, or to any additional tree plantings that may occur on the subject site, or along Parr Parade or Playfair Road as demonstrated by the existing trees that obscure the view corridor. Given the distance of the views (approximately 1km away), the proposals compliance with the building height, combined with the condition design changes to reduce the overall height (from RL40.15 to RL39.977), it is concluded a reasonable view sharing corridor is maintained and the view loss is considered to be reasonable in this instance.

Therefore, the view impact is considered acceptable and the view sharing reasonable.

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

Comment:

The proposed development is considered to be a modest addition which enhances the urban environment, is sympathetic with the existing architecture of the dual occupancy dwelling, and comparative to other recent developments along Parr Parade and Fairport Street.

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

Comment:

There are large trees within surrounding sites that obscure the existing views for the surrounding properties. The subject site contains no significant trees, and the development does not seek the removal of any canopy trees in order to obtain any additional views.

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

Having regard to this localised situation, the assessment of privacy is to be based on the principle of not creating additional unreasonable impacts on the existing level of privacy between neighbours.

The proposed new dwelling will be two storey with a new balcony on the first floor such that additional overlooking could occur.

However, the development has been generally designed to satisfactorily address overlooking by undertaking the following privacy mitigation measures:

- The use of high sill window openings on the northern and eastern elevations
- Sufficient eastern side boundary setback distance of 2.1m to the first floor balcony
- Line of site from the first floor balcony is to the south eastern ocean views, any overlooking is over the front setback of the eastern adjoining neighbour, not the private open space area.
- Orientation of the primary recreational areas to the northern area of the site, away from the eastern adjoining property.

The proposal is considered to optimise privacy through good design and provide a sense of territory and safety for residents, consistent with the outcomes of this development control.

## **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 Section 7.12 Contributions Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$7,817 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$781,727.

## **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 DA2019/0392 for Demolition works and construction of a dwelling house including secondary dwelling on land at Lot 14 DP 13900, 26 Parr Avenue, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Plan A03 Rev K	8/4/2019	G.J.Gardner
Ground Floor Plan A05 Rev K	8/4/2019	G.J. Gardner
First Floor Plan A06 Rev K	8/4/2019	G.J. Gardner
Elevations A07 Rev K	8/4/2019	G.J. Gardner
Elevations A08 Rev K	8/4/2019	G.J.Gardner

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Assessment	10/04/2019	Ascent Geotechnical Consulting

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

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 7.12 Contributions Plan 2019

A monetary contribution of \$7,817.27 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$781,727.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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 the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### **5. Security Bond**

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

An inspection fee in accordance with Council adopted fees and charges (at the time of payment)

is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.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. Amendments to the approved plans**

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

- a) The roof pitch of the first floor level is to be reduced from 15 degrees to a maximum of 13 degrees. In this regard, the roof ridge level will be correspondingly reduced from RL40.150 to RL39.977 in the process of reducing the roof pitch. All plans are to be updated demonstrating the reduction in the roof pitch to 13 degrees.
- b) The floor to ceiling height of the first floor is to be reduced to maximum of 2400mm from 2550mm. All plans are to be updated demonstrating the reduction in the wall height to 2400mm.
- c) The floor to ceiling height of the ground floor is to be reduced to maximum of 2500mm from 2740mm, and to 2800mm from 3140mm. All plans are to be updated demonstrating the reduction in the wall height of 2400mm and 2800mm.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

### **7. Change of Building Class**

The new building that is proposed to be constructed including a secondary dwelling will result in a change of classification to a Class 2 building and will be required to be upgraded to comply with Parts C & F (specifically sound transmission ratings) of the Building Code of Australia. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for fire safety and for building occupant safety

### **8. 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 Nastasi & Associates, drawing number 16928 dated 28/3/2019. 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.

9. **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.

10. **Compliance with Standards**

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

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

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

11. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. 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.

12. **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.

13. **Waste Management Plan**

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

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

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 14. **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.

### 15. **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 30mm 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 30mm 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

### 16. **Road Reserve**

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

Reason: Public Safety.

### 17. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in

accordance with the following requirements:

- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

#### 18. **Vehicle Crossings**

The provision of one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N 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. **Waste Management During Development**

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

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

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

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

#### 20. **Change of Building Class/Building Upgrade**

Prior to the issue of any interim or final Occupation Certificate details demonstrating implementation and compliance with Parts C & F (specifically sound transmission ratings) of the Building Code of Australia in relation to the conversion of the existing building into a Class 2 building are to be provided to the Principal Certifier.

Reason: To ensure adequate provision is made for fire safety and for building occupant safety

#### 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. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces

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

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council.

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

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

25. **Positive Covenant 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.

26. **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)

27. **Waste Management Confirmation**

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

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

28. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Interim or Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

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

**Signed**



**Catriona Shirley, Planner**

The application is determined on 12/08/2019, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**