

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0567
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 6 DP 514865, 6 Bellevue Place NORTH CURL CURL NSW 2099
Proposed Development:	Alterations and additions to a dwelling house including swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Richard Charles Hodgson Pilling
Applicant:	Richard Charles Hodgson Pilling Jill Pilling

Application Lodged:	01/06/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	09/06/2020 to 23/06/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 305,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks alterations and additions to an existing dwelling house.

The proposed works where as follows:

Internal

- New windows proposed to the living room, kitchen, stairwell and bathroom
- New internal stair from the existing ground floor to the lower level laundry
- Removal of part of the existing first floor terrace area and enlarge the terrace on the southern

side

External

- New double carport
- New driveway and hardstand
- New cabana, pergola and outdoor living area
- New external stair to provide access to the ground floor rear deck
- New awning proposed over the existing entry on the western elevation of the existing dwelling
- Replace concrete terrace with timber deck
- New swimming pool

After an inspection of the subject site, view loss and privacy impacts were identified. A letter was sent to the applicant outlining the concerns in regards to the height of the cabana, and potential privacy impacts from the first floor terrace area.

As a result, amended plans were received by Council. The amended plans were not re-notified to all surrounding properties as the plans demonstrated a reduction in amenity and environmental impacts, consistent with the Northern Beaches Council Community Participation Plan. However, the amended plans were emailed to the northern adjoining property for their review as a result of their original submission.

The amended plans form the basis of the assessment below and the list of works is as follows:

Internal

- New windows proposed to the living room, kitchen, stairwell and bathroom
- New internal stair from the existing ground floor to the lower level laundry
- Extension of the first floor terrace on the southern side servicing bedroom two

External

- New double carport
- New driveway and hardstand
- New cabana and outdoor living area
- New privacy screens on the southern elevation
- New external stair to provide access to the ground floor
- Replace concrete terrace with timber deck
- New swimming pool
- New 1.8m privacy screens along the southern elevation of the timber deck.

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 - B9 Rear Boundary Setbacks

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

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 6 DP 514865 , 6 Bellevue Place NORTH CURL CURL NSW 2099
Detailed Site Description:	The subject site is legally identified as Lot 6 in DP 514865, and known as 6 Bellevue Place North Curl Curl. The site is located within the R2 Low Density Residential zone as per the Warringah Local Environment Plan. The site is irregular in shape, with a total size area of 559.4sqm. The street frontage measures 11.06m, with a northern boundary of 33.54m and a southern boundary of 18.765m. The rear boundary measures 26.645m. The site has a slope of over 5m from the rear northeast corner of the site (RL30.78) to the street frontage at (RL25.0). Vehicle access is from Bellevue Place, with stormwater also draining to the street frontage. The site is currently contains a two storey residential dwelling house, with decking area located towards the rear and southern boundary of the site. Surrounding sites consist of one and two storey dwelling houses, of varying ages, within landscaped settings.

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant Development Applications:

- Building Application **BA5003/7648** for alterations and additions to a dwelling house was approved by Council on the 3 July 1998.
- Development Application **DA2002/1811** for a patio awning was approved by Council on the 2 May 2003.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to design amendments to minimise impact to the neighbouring sites. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 from 09/06/2020 to 23/06/2020 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 1 submission/s from:

Name:	Address:
Scott Druery	85 Griffin Road NORTH CURL CURL NSW 2099

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

- ***Building Height***
- ***Use of Cabana***
- ***Privacy***
- ***Views***
- ***Landscaping***
- ***AUSGRID***

The matters raised within the submissions are addressed as follows:

- ***Concern was raised that the height of the cabana is excessive and not in keeping with the characteristic of the surrounding area.***

Comment:

The development involves the construction of a cabana, swimming pool and alterations and additions to an existing dwelling house.

The local area consists of varying building forms including a mix of single and double storey detached dwellings of varying age and architectural style.

The majority of the proposal occurs over the existing footprint of the dwelling house and complies with the building height and side setbacks requirements.

Amended plans were received that demonstrated a height reduction in the cabana roof form, and thus improved the visual bulk and scale of the building.

The amended design also involves replacing the pitched roof with a lower profile pitched roof form, which improves visual outlook from surrounding properties and also reduces the visual bulk and scale of the building when viewed from the street.

Conditions have also been applied to ensure that privacy mitigation measures are incorporated into the design to minimise the amenity impacts to all neighboring sites, whilst maintaining existing view lines.

It is considered that the building has been sufficiently articulated to respond to the detached dwelling elements in the area with the resulting design achieving an architectural consistency with the detached dwellings which collectively characterise the local area.

In this regard, the scale of the development is compatible with the streetscape and consistent with the character of the local area and does not warrant the refusal or further amendment of the application.

- ***Concern is raised that the cabana could be utilised as a secondary dwelling.***

Comment:

A condition has been applied to the consent to ensure that the cabana is not utilised as a secondary dwelling.

As a result, this issues does not warrant the refusal or further amendment of the application.

- ***Concern is raised that the cabana window on the northern elevation and extension of the first floor balcony will have potential overlooking impacts to the northern adjoining property.***

Comment:

The amended plans removed the additional area of the first floor balcony that would have amenity impact to the northern adjoining site.

The additional window on the northern elevation of the cabana, window W10, is proposed to include clear glass and have a sill height of 1.4m. The window is located opposite the kitchen window of No. 5 Bellevue Place and, because the cabana will be subject to regular use, could result in overlooking opportunities (and add to the perception of being overlooked).

In this respect it is considered appropriate to impose a condition that requires opaque glazing to be installed to the window to mitigate overlooking and privacy impacts.

As a result, this issue does not warrant the refusal or further amendment of the application.

- ***Concern is raised that the height of the cabana and extension to the upper balcony will cause view loss to the northern adjoining site (No.5 Bellevue Place).***

Comment:

This issue is discussed elsewhere in this report (refer to 'Application History' and 'Clause D7 - Views').

In summary, the assessment under Clause D7 found that the amended cabana component and removal of the additional upper balcony element and 1.8m privacy screens (via condition) did not result in unreasonable loss to water and ocean views obtained from the neighbouring property.

As a result, this issue does not warrant the refusal or further amendment of the application.

- ***Concern has been raised with the existing landscaping on the northern side boundary setback blocking sunlight into the northern adjoining property, and landscaping over the***

existing sewer line.

Comment:

The plans submitted with the application do not indicate the provision of any removal or additional plantings along northern side boundaries.

Council's Landscaping Officer have reviewed the proposal and has provided support in regards to the proposal (refer to the Referrals section of this report).

As a result, this issue does not warrant the refusal or further amendment of the application.

- ***Concern has been raised in regards to the electricity lines coming in from the street to No. 5 Bellevue Place are impacted from the subjects sites existing trees along the northern boundary.***

Comment:

This concern is not related to a planning issue as a result of the proposal. It is recommended that if there is a risk and impact to the electricity line as a result of trees, that the objector contact their own service provider to discuss proactive vegetation management.

This issue does not form a sufficient reason to refuse the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The plans indicate that no significant landscape features are affected by the proposed works. No objections are raised subject to conditions as recommended.
NECC (Development Engineering)	No objections to the proposed double garage, alterations and additions and pool subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

application hereunder.

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. 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. A52835_2 dated 2 April 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A52835_2 dated 2 April 2020).

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.

SEPP (Coastal Management) 2018

The site are located within the Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP), and the provisions of this policy are applicable in relation to the proposal.

Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- The proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- The proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP,
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP,
- The proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

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	6.7m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	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	4.6m North 5.8m South	- -	Yes Yes
B3 Side Boundary Envelope	5m	No encroachment	-	Yes
	5m	No encroachment	-	Yes
B5 Side Boundary Setbacks	0.9m North	0.9 - 1.2m Carport	-	Yes
		0.9m - 1.7m Cabana/New Decking	-	Yes
		1.5m Swimming Pool	-	Yes
		0.9m Timber Deck	-	Yes
	0.9m South	8.7m - 11.8m Cabana/New Decking	-	Yes
		6.9m - 9.7m Carport	-	Yes
		6m - 7.4m Terrace	-	Yes
B7 Front Boundary Setbacks	6.5m	11.07m Carport/Cabana	-	Yes
B9 Rear Boundary Setbacks	6m	2.2m Swimming Pool 0.62 Decking 1.5m Terrace	63% 89.6% 75%	No No No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	33% (180.45sqm)	17%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
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

B9 Rear Boundary Setbacks

Description of non-compliance

The proposal includes the replacement of the approved concrete terrace area (Building application BA5003/7648) that currently sits 0.622m from the rear boundary. The new decking terrace will mimic the existing non-compliant rear setback.

The swimming pool will be located 2.175m from the rear setback area.

The proposal also involves a first floor terrace that displays a non-compliant 1.5m setback from the eastern rear boundary.

It is important to note that full compliance with the rear setback control is severely constrained by the existing dwelling house location. The existing dwelling is setback into the site and subsequently encroaches the rear setback area, as shown in figure 1 below.

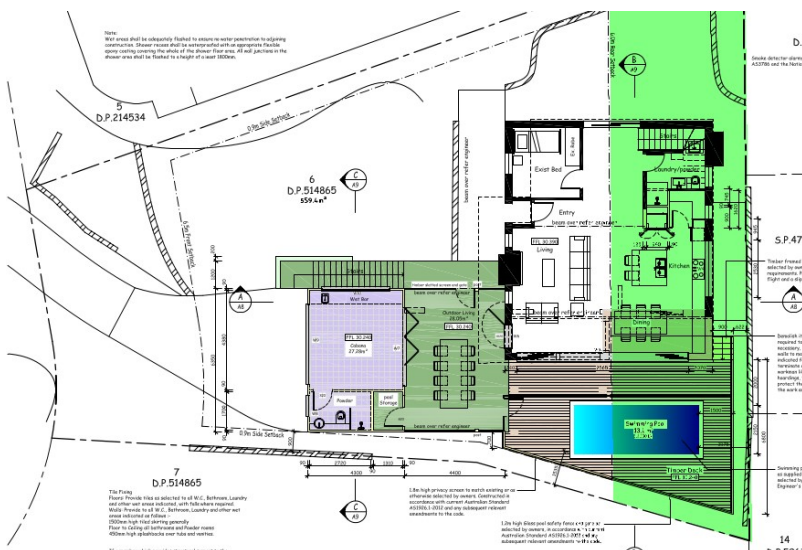


Figure 1: Encroachment of the existing dwelling house (and additional works) into the rear setback area shown in green.

However, whilst there application seeks to mimic existing rear and side setbacks, there is an opportunity in this application to improve the privacy impacts to the surrounding sites as detailed 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 ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The existing siting of the dwelling provides limited opportunity for landscaped area at the rear of the site. Despite this, the proposal maintains landscaped area to the front, northern side of the dwelling. The additional works have minimal impact on the previous approved areas of landscaped area, with the existing areas within the front of the property providing ample space to soften and screen the proposed built form. As such, landscaped areas are appropriately maintained for the site.

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

Comment:

The proposed replacement deck does not extend beyond the existing rear setback, and other additions such as the swimming pool and first floor terrace area maintain an open presentation of these features. As a result, the existing sense of openness is adequately maintained in the rear yard.

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

Comment:

The existing building bulk of the rear setback area is generally maintained, and complies with the required building envelope and side setback controls. However, the existing non-compliant rear setback is retained. Whilst the privacy impacts to the neighbouring sites are not exacerbated via the proposal, due to the elevation of the decking and close proximity to the rear setback (i.e. 0.622m) there is a opportunity to improve the level of direct overlooking into the neighbouring private open space areas. As a result, privacy screens will be conditioned on the eastern edge of the decking and terrace areas to provide additional privacy mitigation and reduce amenity impacts to the principal private open space areas.

The additional openings in the dwelling house are of a sufficient size and separation from neighbours to ensure there would not be any unreasonable overlooking impact.

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

Comment:

The proposal maintains the existing front, side and rear setback areas of landscaping. This maintains appropriate visual continuity by complementing neighbouring landscaped area. The non-compliant elements consist of decking areas and pool structures which do not unreasonably add the bulk or scale of the building than what currently exists, and do not conflict with the existing visual continuity and pattern of buildings, rear gardens and landscape elements of the visual catchment.

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

Comment:

The proposed decking (replacing the existing terrace) is elevated which presents overlooking opportunities. Whilst, the plans indicate that the existing setbacks will be provided to the surrounding neighbouring sites, improvements through the incorporation of privacy screens along the eastern edge of the decking will be conditioned to prevent downward viewing into the surrounding neighbours private open space areas.

The upper floor terrace is situated approximately 1.5m from the side boundary of No. 40 Griffin Road. The proximity to the eastern adjoining site means overlooking impacts are increased due to the elevated aspect of the subject site. In this respect, the balustrade along the eastern edge of the terrace has been replaced with a 1.65m louvered screen to prevent downward viewing from within the balcony area. This ensures that the proposal would adequately maintain the existing level of privacy between dwellings.

Direct overlooking is also evident from the south-east area of the decking. As a result, it is proposed to re-align the proposed pool fencing/balustrade across the deck area to reduce the usable area of the decking. This will provide an acceptable solution to the privacy impacts this section of the deck creates. It would enable the retention of a high amenity outdoor area for the proposed development, whilst maintaining privacy for the neighbouring dwellings.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Clause D1 requires that development provides 40% landscaped area which equates to 223.76m² of the site area.

The site currently provides 31% landscaped area which equates to 175.39m² of the site area. The development (as amended) increases this by a further 5.06m² to achieve 33% landscaped area which equates to 180.45m².

Notwithstanding, the development remains deficient by 43.31m² which equates to a variation of 17.5%.

Merit consideration

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

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

Comment:

The proposal will generally maintain the existing hard surface area within the site. Landscaping will be retained in the front setback, which will help to maintain and enhance the streetscape.

The development is considered to satisfy this objective.

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

Comment:

The development does not involve the removal of any vegetation which would compromise indigenous vegetation, topographical features and habitat for wildlife.

The development is considered to satisfy this objective.

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

Comment:

The landscape area demonstrates that the site can provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

The development is considered to satisfy this objective.

- *To enhance privacy between buildings.*

Comment:

The proposal will not result in any additional unreasonable privacy impacts.

The development is considered to satisfy this objective.

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

Comment:

The development includes a swimming pool private open space area within the rear yard. This area remains unaltered from the current availability given that the development occurs on the existing building footprint. However, the development does improve the quality and usability of this private open space area to meet the needs of the occupants.

The development is considered to satisfy this objective.

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

Comment:

The development retains its current space for service functions, including clothes drying.

The development is considered to satisfy this objective.

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

Comment:

The development has been reviewed by Council's Development Engineer who did not raise any objection to the proposal subject to conditions.

The development is considered to satisfy this objective.

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

An inspection of the subject site and surrounding properties revealed that the proposed development, particularly the cabana and upper terrace would obstruct coastal view lines from the northern adjoining neighbour, being No. 5 Bellevue Place.

It was also brought to the planners attention during the site visit that views from No. 5 Bellevue Place of Curl Curl beach, the beach wave zone, and ocean views are obstructed by existing privacy screens on the southern edge of the subject sites ground floor balcony. Upon investigation no approval could be found for the existing privacy screens on the subject site. A referral to Building Compliance will be made in regards to the unauthorized screens.

Discussion was undertaken with the applicant in regards to the proposals impact on No. 5 Bellevue Place views, and as a result, amended plans were received that reduced the proposed cabana and pergola in height from RL34.65 to RL33.52 and the extension of the upper terrace was removed to reduce view loss impact.

The amended proposal also included additional privacy screens on the western and southern edge of the ground floor deck area. These screens will obstruct the views from No. 5 Bellevue, and are not a necessity for privacy mitigation. As a result the screens will be removed via a condition.

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.

In assessing view sharing, an inspection from the ground level and upper level of the neighbouring dwelling at No. 5 Bellevue Place was undertaken.

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 Step 1:

The views to the south-east from the ground floor of No. 5 Bellevue Place are ocean water views and the wave zone area of Curl Curl Beach. The view also includes glimpses of the Curl Curl Beach shoreline. These views are currently obscured by an unapproved privacy screen, see Figure 1 below.



Figure 1: The Curl Curl beach views from No. 5 Bellevue Place, obstructed by unapproved privacy screen.

The views from the upper floor of No. 5 Bellevue Place include Manly Headland, Freshwater Headland, ocean and horizon, Curl Curl Lagoon and Curl Curl Beach, see figure 2 below. These views are not impacted as a result of the proposal.



Figure 2. Existing views lines to the south-east from the upper floor of the northern adjoining site.

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 Step 2:

The view to be affected are obtained from ground level south-facing rooms (kitchen and lounge) which are located at the front of the dwelling of No.5 Bellevue Place.

The views are obtained from both a standing and sitting position through a small view corridor across the side boundary of the subject site.

More expansive views of Many & Freshwater headland, Curl Curl Beach, Curl Curl Lagoon and district views are obtained from the southern side windows of the upper floor living room and first floor balcony area which is located at the front of the dwelling. These views are obtained across the side boundaries over the subject site in a sitting and standing position.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Step 3:

While all views to the south-east would be maintained from the upper floor, the extent of impact from the ground floor is qualitatively considered to be severe in that the privacy screens in the proposed location would result in a total loss of ocean views and wave zone to the south-east from the lower level of the property.

A more appropriate and satisfactory solution to address this issue would be to remove the privacy screens in the proposed location.

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 Step 4:

While the proposed privacy screens comply with the built form controls, and it is acknowledged that the view line is through a small view corridor that is susceptible to any form of development in this area, there are other more viable and satisfactory alternatives available which would reduce the degree of

view loss without additional amenity impacts to the southern adjoining site.

It is considered that a more skillful design (via the removal of the privacy screens) could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. Therefore, the impact upon view sharing by the proposed privacy screen component of the development is considered to be unreasonable and given that view sharing could be greater facilitated by the removal of the privacy screens, this will be undertaken via conditions.

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

Comment:

As a result of the amendments to the height of the cabana, pergola and removal of the additional terrace area, the proposal (as conditioned) demonstrates adequate design solutions in an attempt to develop a proposal that incorporates modern and contemporary architecture that is directly responsive to the natural topography of the land.

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

Comment:

The existing canopy trees within the vicinity will be maintained ensuring consistency with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

The proposal includes a new upper floor terrace at the rear of the dwelling that services Bedroom 2.

Given the elevation and distance from the eastern side boundaries (i.e. 1.5m) the balcony has the potential to overlook into the rear private open spaces of the properties to the east. Although the room the balcony services is a bedroom (which are rooms regarded by the NSW Land and Environment Court as being of lesser impact than dedicated living rooms) it serves a purpose beyond that which the Court considered to be typically intended for bedroom use.

The proposal also includes the replacement of the approved concrete terrace area that currently sits 0.622m from the eastern boundary and 0.9m from the western side boundary. Direct overlooking is also evident from the south-east area of the decking.

The addition of window (W10) that services the cabana is located directly opposite the kitchen window of the northern adjoining property. This window has the potential to create overlooking opportunities, or the perception of being overlooked.

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

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

for occupants and neighbours.

Comment:

As discussed above, the development includes a elevated first floor terrace area. Although servicing a bedroom, the balcony is designed to be used as an outdoor area in which to actively stand and/or sit (i.e. not sleep). Therefore, it is considered appropriate to require screening to be installed along the eastern side edge of the balcony to mitigate overlooking opportunity (and the perception of being overlooked) to the rear private open space areas of the properties to the east.

Window W10 is proposed to include clear glass and have a sill height of 1.4m. The window is located opposite the kitchen window of No. 5 Bellevue Place and, because the cabana will be subject to regular use, could result in overlooking opportunities (and add to the perception of being overlooked). In this respect it is considered appropriate to impose a condition which requires opaque glazing to be installed to the window to mitigate overlooking.

The development is replacing the existing terrace area on the ground floor with a new deck area, that includes a swimming pool. Direct overlooking is evident from the south-east area of the decking. As a result, it is proposed to re-align the proposed pool fencing/balustrade across the deck area to reduce the usable area of the decking. This will provide an acceptable solution to the privacy impacts this section of the deck creates. It would enable the retention of a high amenity outdoor area for the proposed development, whilst maintaining privacy for the neighbouring dwellings.

It is considered appropriate to require screening to be installed along the eastern side edge of the ground floor balcony to mitigate overlooking opportunity (and the perception of being overlooked) to the rear private open space areas of the properties to the east due to the proximity to the eastern rear boundary and elevated design.

The proposal includes additional screening to the southern edge of the new deck area. These privacy screens create unreasonable impact to the view lines from No. 5 Bellevue Place, and are not required in this instance as the area adjoins No. 7 Bellevue Streets northern wall plane, of which the windows are currently opaque and do not service high usage rooms, not their private open space area. As a result the screens are not required to provide a reasonable level of privacy and due to the view loss impacts will be removed via condition.

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

Comment:

The development (as conditioned) has provided in inclusion of reasonable privacy mitigation measures to improve the existing overlooking from the ground floor balcony, and minimise the the overlooking from the new built form.

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

Comment:

The development provides for the personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, 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.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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 \$3,050 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$305,000.

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 DA2020/0567 for Alterations and additions to a dwelling house including swimming pool on land at Lot 6 DP 514865, 6 Bellevue Place, 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
Proposed Upper Floor Plan A1	26/08/2020	Sally Gardner Design and Draft
Proposed ground floor A2	26/08/2020	Sally Gardner Design and Draft
Proposed Lower Ground Plan A3	26/08/2020	Sally Gardner Design and Draft
Elevation West A4	26/08/2020	Sally Gardner Design and Draft
Elevation South A5	26/08/2020	Sally Gardner Design and Draft
Elevation East A6	26/08/2020	Sally Gardner Design and Draft
Elevation North A7	26/08/2020	Sally Gardner Design and Draft
Sections A-A	26/08/2020	Sally Gardner Design and Draft
Sections B-B & C-C	26/08/2020	Sally Gardner Design and Draft
Site Plan S1	26/08/2020	Sally Gardner Design and Draft

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. **Approved Land Use**

Nothing in this consent shall authorise the use of onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a Cabana/Detached Studio.

A Detached Studio/Cabana is defined as:

“detached studio means a habitable building that is used for purposes ancillary to a dwelling house such as a home office, entertainment area, art studio or guest room and—

(a) is established in conjunction with a dwelling house, and

- (b) is on the same lot of land as the dwelling house, and
- (c) is separate from the dwelling house, and
- (d) is not used as a separate dwelling house, and
- (e) does not contain any cooking facilities.”

(development as defined by the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (as amended) Interpretation - General)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
 - (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (j) 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.
 - (k) 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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
 - (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
 - (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in 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

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,050.00 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 \$305,000.00.

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

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.

6. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and 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).

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

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

7. Stormwater Disposal

The applicant is to submit Stormwater Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site. Stormwater shall be conveyed to the kerb and gutter in Bellevue Place.

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

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

8. Amendments to the approved plans

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

- A) The proposed privacy screens adjoining the timber decking on the ground floor, as indicated on the approved plans do not form part of this development consent. Reference to these privacy screens is to be removed from the approved plans prior to the issue of the construction certificate.
- B) Windows W10 on the northern elevation of the cabana is to be of opaque glazing.
- C) The proposed balustrade on the ground floor decking is to run parallel with the southern edge of the swimming pool coping across the decking. The proposed balustrades are to be located a maximum distance of 1.0m from the swimming pool coping, and maintain this parallel arrangement until it reaches the eastern outer edge of the balcony.

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.

9. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with

Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **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.

11. **Privacy Screens**

Two privacy screens are to be installed in the following locations:

A) A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost eastern edge of the first floor terrace located off bedroom 2 as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

B) A 1.65 metre privacy screen (measured from finished floor level) is to be erected along the outermost eastern edge of the ground floor deck. The privacy screen is to start from the deck area that adjoins the rear access stairs, along the outermost eastern edge of the deck for a minimum length of 4.4m. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

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

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 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. 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 25mm 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 25mm 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

14. Road Reserve

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

Reason: Public safety.

15. 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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

16. Survey Certificate

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) 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.

17. Vehicle Crossings

The Applicant is to construct one vehicle crossing and layback 3m wide. The 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.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

18. 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.

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

19. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

20. 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)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

21. **Swimming Pool Pump**

The swimming pump is to remain in a sound proof enclosure and is to not emit noise over 5dba above background noise at the nearest residential boundary.

Reason: To protect the acoustic amenity of surrounding properties.

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

Signed



Catriona Shirley, Planner

The application is determined on 16/09/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments