

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1248
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 139 DP 5539, 53 Gardere Avenue CURL CURL NSW 2096
Proposed Development:	Alterations and additions to a dwelling house including a 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:	Simon John Priest Christy Veronica Bentham
Applicant:	Space Landscape Designs Pty Ltd

Application Lodged:	30/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	09/08/2021 to 23/08/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 81,550.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for alterations and additions to an existing dwelling house, which includes:

- New swimming pool, surrounding decking and pool fencing in the rear yard.
- New landscaping around the perimeter of the pool.
- External stairs from the dwelling to provide access to the swimming pool.
- Removal of paving within front yard and replace with soft landscaping.

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

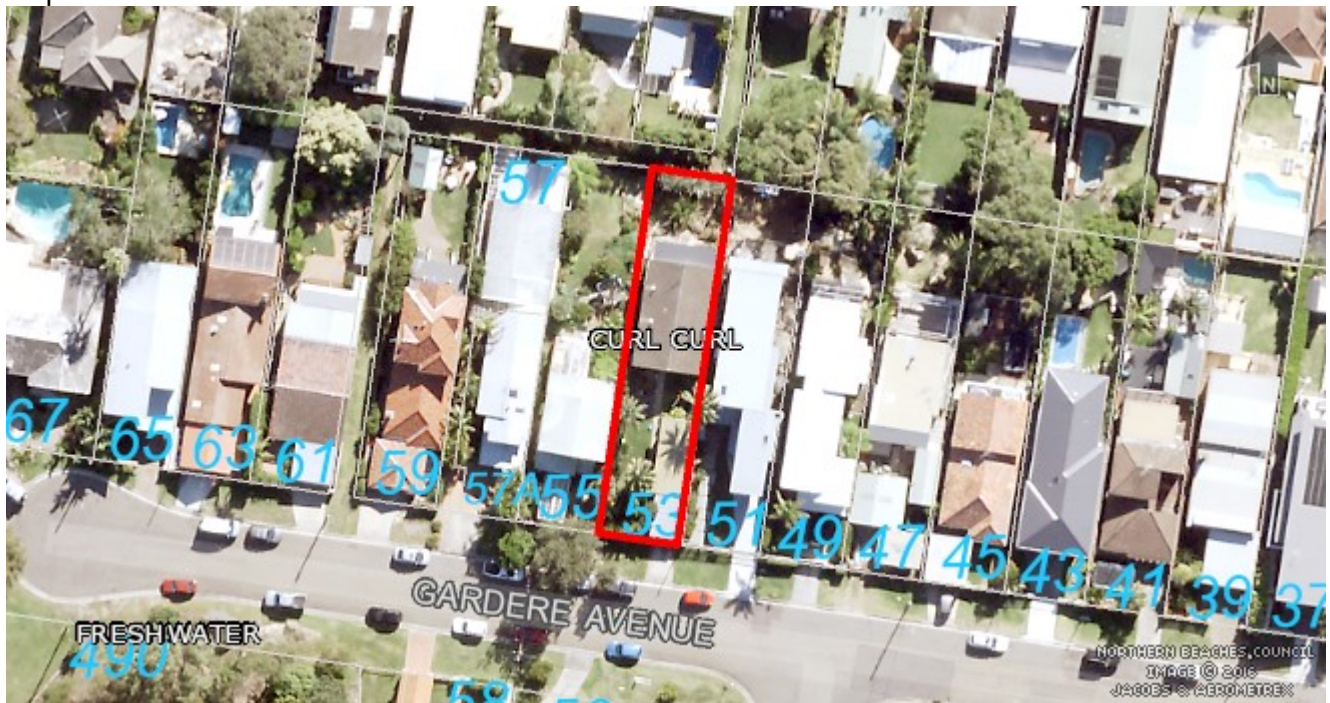
SITE DESCRIPTION

Property Description:	Lot 139 DP 5539 , 53 Gardere Avenue CURL CURL NSW 2096
Detailed Site Description:	The subject site consists of one allotment located on the northern side of Gardere Avenue, Curl Curl. The site is regular in shape with a frontage of 10.06m along Gardere Avenue and respective depths of 45.315m and 45.305m along the western and eastern side boundaries. The site has a surveyed area of 455.8sqm. The site is located within the R2 Low Density Residential zone pursuant to Warringah LEP 2011 and accommodates a two storey dwelling house, including a detached garage within the front setback area. The site contains a number of palm trees and shrubs. A number of rock outcrops are located within the rear yard. The site experiences a fall of 7.7m that slopes away from the front boundary towards the rear. This represents an approximate slope of 17%. A large extent of the fall occurs within the rear yard down a sandstone rock face approximately 3.5m in height.

Description of Surrounding Development

The surrounding built environment is characterised by detached low density residential development, ranging between 1-3 storeys in height. Surrounding development is representative of both older housing stock and modern development. The site is located 30m to the north-east of a Public Reserve.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site. The land has been used for residential purposes for an extended period of time.

APPLICATION HISTORY

The Assessment Officer examined the subject site and immediate surrounds on 26 August 2021.

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	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

Section 4.15 Matters for Consideration'	Comments
instrument	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 2011 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)	<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>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 2011 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 09/08/2021 to 23/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Dr Tatiana Kim Lowe	51 Gardere Avenue CURL CURL NSW 2096

One (1) submission was received from the owners/occupants of the eastern adjacent property (51 Gardere Avenue). The matters raised within the submission are addressed as follows:

- **Acoustical Privacy Impacts from Pool Filter Box**

Comment:

A condition has been included with this consent limiting all sound producing plant, equipment, machinery or fittings to no more than 5dB (A) above the background level when measured from any property boundary and/or habitable rooms. This will ensure the development does not result in unreasonable acoustical privacy impacts.

- **Excavation of Stone to not impact Foundations at No. 28**

Comment:

The application has been accompanied by a Geotechnical Report (prepared by White Geotechnical Consulting), which states that the works will be acceptable from a geotechnical standpoint. The report recommends that a geotechnical engineer inspects the property following the rock trimming and prior to the bulk of the excavation works. The recommendations of the report will form part of this consent.

- **Dust Management During Works**

Comment:

Sediment and erosion control measures have been conditioned as part of this consent. The Certifier will ensure all works are consistent with relevant BCA and Australian Standard provisions, inclusive of work place safety requirements.

- **Boundary Fencing to not be Impacted**

Comment:

The works do not alter the existing boundary fencing between No. 53 and No. 51. A condition has been included with this consent to ensure the boundary fencing is not impacted upon.

Conclusion

The concerns raised within the submission have been appropriately addressed above and resolved through conditions where necessary. The concerns do not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal seeks approval for the following external alterations and additions: construct new concrete swimming pool and associated deck, and construct new external stairs. The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to): • D1 Landscaped Open Space and Bushland Setting • D16 Swimming Pools and Spa Pools • E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation • E6 Retaining unique environmental features The proposed development works are located at rear of the site that is occupied by a natural rock face that divides the existing garden to two levels. The lower level below the existing natural rock face is proposed for the works and the natural rock face shall be retained where possible beyond the development works. No trees are proposed to be removed as part of the works. The proposed Landscape Plan incorporates planting to the rear, west and eastern boundaries, to provide privacy around the proposed swimming pool and associated paving and deck. Landscape Referral raise no objections to the application.
NECC (Coast and Catchments)	This application was assessed in consideration of: • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Coastal Management) 2018 (section 13 & 15); and • Relevant LEP and DCP clauses. The application meets the requirements of the relevant Environmental Planning Instruments and policies. Recommended for approval subject to conditions: • Swimming pools (prior to construction certificate) • Installation and maintenance of sediment and erosion control (prior to commencement)

Internal Referral Body	Comments
	• Geotechnical Issues (during works)
NECC (Development Engineering)	No objections to the proposed swimming pool and landscaping proposal 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 (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The site is identified within the Coastal Environment Area pursuant to SEPP (Coastal Management) 2018. Accordingly, the proposal is considered against Clauses 14 and 15 of the Policy as follows:

13 Development on land within the coastal environment area

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

Comment:

The site is visually separated from the foreshore and Curl Curl Lagoon, such that the proposal will not detract from the visual qualities of the coastal area, the use of the surf zone or preclude access to or along the foreshore. Furthermore, given the significant separation, the works will not impact upon the ecological values of the coastal area. It is further noted that the site is not mapped as an area known for containing Aboriginal items and as such, the proposal will not impact upon Aboriginal cultural heritage, practices and places.

For the reasons outlined above, Council is satisfied that the development is designed, sited and will be

managed to avoid an adverse impact upon the matters referred to in Clause 14.

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

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

Comment:

Given the scale of the development is significant distance from the foreshore and Curl Curl Lagoon, Council is satisfied that the proposal will not increase the risk of coastal hazards within the locality.

Conclusion

Based on the above assessment, it is concluded that the proposed development aligns with the relevant provisions within SEPP (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.45m	-	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
B3 Side Boundary Envelope	5m then projected at 45 degrees (east)	within envelope	-	Yes
	5m then projected at 45 degree (west)	within envelope	-	Yes
B5 Side Boundary Setbacks	0.9m (east)	1m	-	Yes

	0.9m (west)	1.03m	-	Yes
B7 Front Boundary Setbacks	6.5m	36m	-	Yes
B9 Rear Boundary Setbacks	6m	0.9m - 2.05m	65.83% - 85%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (182.32sqm)	38.96% (177.6sqm)	2.59%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	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
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland 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 control requires development to be setback at least 6m from rear boundaries. The proposed swimming pool and decking is setback between 0.9m - 2.05m from the rear boundary, which represents a 65.83% - 85% variation from the numeric requirement.

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 minor landscaped open space non-compliance is discussed in detail within the section of this report relating to Clause D1 of the Warringah DCP 2011. In summary, the 2.59% landscaped open space variation is considered to be acceptable, given the size, height and location of the swimming pool is consistent with the existing swimming pool on the eastern adjacent site (No. 51); the proposal does not result in the removal of significant vegetation; and there are sufficient dimensions of soft landscaping to assist in water infiltration.

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

Comment:

The swimming pool will be largely concealed from adjoining properties by existing boundary fencing and planting. Furthermore, the pool will increase the usability of the rear yard, noting that the rear yard is particularly steep and not conducive to serve as private open space. Overall, the proposal will not preclude a sense of openness within the rear yard.

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

Comment:

The floor level of the pool surrounds is sited at RL33.29, which generally correlates with the swimming pool levels on the eastern adjacent site (No. 51), which is sited at RL33.23. As such, the existing boundary fencing will be sufficient to negate opportunities for direct overlooking between the two properties when in both standing and sitting positions. The proposed screen planting will further assist in maintaining privacy, whilst not solely relied upon as a privacy measure.

In relation to the western adjacent site (No. 55), it is noted that the pool will only allow for direct viewing into the lower portion of the site, which consists of garden beds with planting. The principal private open space is sited closer to the building footprint and out of direct eyesight. It is noted that the proposed screen planting will assist in maintaining privacy, whilst not solely relied upon as a privacy measure.

In regards to the site directly to the north (42 Curl Curl Parade), it is noted that this property is visually separated by a public walkway which is located between the respective rear boundaries. The rear boundary of No. 42 is also screened by existing vegetation and boundary fencing. As such, the privacy impacts will not be unreasonable, notwithstanding the non-compliant rear setback.

Furthermore, given the proximity to ground level, the slope of the land and the north-south aspect of the allotments, the overshadowing impacts will be minimal and in compliance with Clause D6 of the Warringah DCP 2011.

Additionally, due to the slope of the land and location of the pool (being downslope of the dwelling houses), the proposal will not compromise view lines to the north from adjacent properties.

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

Comment:

The size, height and location of the swimming pool is consistent with the existing swimming pool on the eastern adjacent site (No. 51). As such, the proposal will maintain the existing visual continuity and pattern of development.

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

Comment:

As discussed above, the proposal will not give rise to adverse privacy impacts.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The control requires at least 40% (182.32sqm) of the site to comprise landscaped open space (LOS). In calculating LOS, the following applies:

- a) *Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;*
- b) *The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;*
- c) *Landscaped open space must be at ground level (finished); and*
- d) *The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

The proposed LOS equates to 38.96% (177.6sqm) of the site, which represents a 2.59% variation from the numeric requirement.

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 swimming pool is located within the rear yard and is not visible from the street frontage. As such, the works will not detract from the visual qualities of the streetscape.

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

Comment:

The works do not result in the removal of significant vegetation. Portions of the rock outcrop will be maintained. Overall, the proposal achieves 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:

There is sufficient proportions of landscaped open space on the site to allow for the further establishment of planting.

- *To enhance privacy between buildings.*

Comment:

As discussed in detail within the section of this report relating to Clause B9 of the Warringah DCP 2011, the proposal will not have an unreasonable privacy impact on adjoining properties.

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

Comment:

The pool will increase the usability of the rear yard, noting that the rear yard is particular steep and not conducive to serve as private open space. The proposed swimming pool, coupled with the front yard and existing rear decking, will provide appropriate outdoor recreational opportunities to meet the needs of the occupants.

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

Comment:

There is adequate outdoor open space to service functions, including cloths drying.

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

Comment:

Council's Development Engineers have reviewed the proposal with respect to stormwater management and raised no objections, subject to a conditions. In this regard, the proposal will adequately manage stormwater. The areas of deep soil landscaping are considered to be acceptable and will assist in water infiltration.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

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 2021

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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 DA2021/1248 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 139 DP 5539, 53 Gardere Avenue, CURL CURL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-02 - DEMOLITION PLAN EXCAVATION & FILL PLAN	06/07/2021	Space Landscape Designs
DA-03 - SECTION ELEVATIONS	06/07/2021	Space Landscape Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment Ref. J3558	08/07/2021	White Geotechnical Group

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-04 - LANDSCAPE PLAN	06/07/2021	Space Landscape Designs

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	07/07/2021	Space Landscape Designs

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) 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 2018
 - (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 sewerred areas or managed on-site in unsewerred 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.

4. **No Consent for Modifications to Side Boundary Fencing**

No consent is granted for demolition or modifications of existing side boundary fencing.

Reason: Side boundary fencing is governed by the Dividing Fences Act 1991.

FEES / CHARGES / CONTRIBUTIONS

5. **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

6. **Swimming Pools**

The backwash of Swimming Pool water must be discharged to Sydney Water's sewer in accordance with Australian/New Zealand Standard AS/NZS 3500. Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

Reason: To ensure compliance with legislation and Australian Standards and to protect public health, amenity and to ensure the protection and preservation of receiving waters.

7. 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.

8. 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

9. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Protection of Rock and Sites of Significance

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.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

11. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

i) all trees and vegetation within the site not approved for removal, excluding exempt trees and

vegetation under the relevant planning instruments of legislation,
 ii) all trees and vegetation located on adjoining properties,
 iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- vi) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

The Certifying Authority must ensure that:

- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

12. **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.

13. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

14. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and

Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

15. **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.

16. **Geotechnical Issues**

The recommendations outlined within the Preliminary Geotechnical Assessment report prepared by White Geotechnical Group dated 8 July 2021 are to be complied with and adhered to throughout development.

Reason: To ensure excavations and installations are undertaken in an appropriate manner and structurally sound.

17. **Geotechnical Inspections and Certification**

A suitably qualified geotechnical engineer/geologist must undertake the following inspections:

- The geotechnical consultant is to inspect the excavation for the pool access/stairs following the rock trimming and prior to the bulk excavation commencing.

Documented evidence must be provided to the Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

18. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plans.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

19. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes and Councils Water Management Policy for Development by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

development.

20. **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.

21. **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.

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

22. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be

replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

23. Pool Filter Noise

All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

Reason: To ensure an appropriate level of residential amenity.

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

Signed



Thomas Burns, Planner

The application is determined on 31/08/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments