



## Pre-lodgement Meeting Notes

**Application No:** PLM2024/0114  
**Meeting Date:** 1 October 2024  
**Property Address:** 90 Harbord Road FRESHWATER  
**Proposal:** Alterations and Additions to Existing Structures for use as a Detached Dual Occupancy and Associated Works, including Torrens Title Subdivision  
**Attendees for Council:** Clare Costanzo, Planner  
Daniel Milliken, Manager Development Advisory Services

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### General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only.

These notes are an account of the advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the meeting.

These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority.

A determination can only be made following the lodgement and full assessment of the application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.



## SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Response to Matters Raised by the Applicant	
Will Council support the proposal for a dual occupancy (detached) on the site?	<p>Council is generally supportive of the change of use from a single dwelling to a dual occupancy.</p> <p>However, given the existing site constraints Council considers a dual occupancy (attached) to be more appropriate in providing the best outcome for the site regarding amenity for the residents and a built form that can better comply with the relevant development controls.</p>
Will Council support a Clause 4.6 Variation to Development Standard – Minimum Subdivision Lot Size?	<p>Strict compliance with the control in these circumstances is not unreasonable and Council does not consider there are sufficient environmental planning grounds to justify a variation.</p> <p>Council acknowledges the examples of smaller sites in Freshwater, however, this is not pattern, size and configuration of lots within the immediate vicinity and not something that is consistent with the desired future character of the area.</p> <p>Council would not support the Torrens title subdivision and recommends exploring a strata subdivision for the site.</p>
Front setback non-compliance	<p>Retention of the primary dwelling on site will result in a setback non-compliance to the secondary frontage along Wyndora Avenue.</p> <p>If the primary dwelling is being retained and incorporated into the development, the upper level should be setback at least 6.5m from the eastern boundary, 3.5m from the southern boundary and 0.9m from all side boundaries. Currently, the upper level is setback 1.7m from the secondary frontage and would not be supported.</p> <p>A variation to the secondary setback could be supported for the existing double garage fronting Wyndora Avenue, however Council recommends providing a setback of 3.5m for the ground and first floor of the dwelling. The upper level should be shifted to the north to provide a 3.5m setback. A small variation could be supported for the deck element which provides for some visual articulation.</p>
Will Council support the proposed variation to D1 Landscaped Open Space and Bushland Setting 40% requirement?	<p>Existing landscaped area and proposed landscaped area were discussed within the prelodgement meeting. The existing site has a significant deficit to the control with some landscaped areas and the swimming pool numerically counted as landscaped area.</p> <p>Reviewing past approvals for the site it appears that the existing dwelling, swimming pool, single concrete pathway, outbuilding and garage have been previously approved. However, the significant concrete hardstand area and additional impervious areas directly adjoining the swimming</p>



Response to Matters Raised by the Applicant	
	<p>pool does not have approval and they significantly contribute to the deficit in landscaped area.</p> <p>Based on the information available it is apparent that the site achieved the 40% landscaped requirement prior to the unapproved works directly adjoining the dwelling and swimming pool and therefore Council would not support a variation to the landscaped control that only 'sought to provide an improvement to the existing landscaped area'.</p> <p>A minimum of 40% landscaped area is required especially given the substantial redevelopment of the site and change of use to a dual occupancy that ultimately intensifies the use of the land.</p>
Will Council support the proposed alterations and additions retaining the existing non-compliant side and front boundary setbacks as per WDCP controls B5 and B7?	<p>If the site is redeveloped for a dual occupancy, no, retaining the existing western and northern boundary non-compliances would not be supported.</p> <p>Concerns are raised regarding the use of the existing dwelling, garage and outbuilding to support an additional level and their use as dual occupancy (detached).</p> <p>Council reviewed the documentation provided following the meeting and acknowledges the structures have been previously approved and that they appear to be structurally adequate (noting that much of the load for the western dwelling's first floor will not be borne by the existing walls). However, given the substantial redevelopment of the site and intensification through the change of use to a dual occupancy, it is recommended that compliant side boundaries of a minimum of 0.9m are provided for the ground level and then further recessed setbacks to the upper levels to provide for visual articulation.</p> <p>It is noted that this will require their demolition, but it is not appropriate for what will appear as a full redevelopment of the site, to have such significant non-compliances remaining. This has been confirmed in discussions with the DA Manager of this particular area (i.e. the Manager responsible for determining any future DA).</p>
Does Council have any further constructive feedback prior to lodgement of a Development Application?	<p>Council is generally supportive of a dual occupancy on the site with strata subdivision, however there are concerns regarding the use of the existing non-compliant structures on site particularly the cumulative impact of these numerous non-compliances with the proposed variations all requiring merit consideration. This will result in an overdevelopment of the site and degrade the existing controls which are intended to ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.</p>



Response to Matters Raised by the Applicant	
	<p>The size of the dwellings proposed are typical of a single dwelling house on a single lot. To achieve compliance with the controls and achieve the objectives of the controls where a merit assessment may be required, it is recommended the overall size of each dwelling is reduced.</p> <p>Council also recommends exploring design options to redevelop the site by providing a dual occupancy (attached) utilising the existing dwelling or a full redevelopment of the site to provide either a dual occupancy (detached) or dual occupancy (attached).</p>

## WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)

WLEP 2011 can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0649>

Part 2 - Zoning and Permissibility	
<b>Definition of proposed development:</b> (ref. WLEP 2011 Dictionary)	Dual occupancy (detached)
<b>Zone:</b>	R2 Low Density Residential
<b>Permitted with Consent or Prohibited:</b>	Prohibited

Although dual occupancies are prohibited within the R2 Low Density Residential zone under the WLEP 2011, the State Environmental Planning Policy (Housing) Amendment (Dual Occupancies and Semi-detached Dwellings) 2024 is applicable to this site and overrides this prohibition. The applicable clause has been copied below.

*141C Development permitted with development consent Development for the purposes of dual occupancies and semi-detached dwellings is permitted with development consent in Zone R2 Low Density Residential on land to which this part applies.*

Part 4 - Principal Development Standards			
Standard	Permitted	Proposed	Compliance
<b>4.1 Minimum subdivision lot size</b>	450sqm	<p>Lot A (Wyndora Avenue frontage): 378.08sqm</p> <p>Lot B (Corner of Wyndora and Harbord Road): 323.56sqm</p>	<p>Lot A: No (221.92sqm or 37% variation)</p> <p>Lot B: No (276.44sqm or 46%)</p>



## Part 4 - Principal Development Standards

### Comment:

The proposed subdivision of one lot into two Torrens title lots would require a Clause 4.6 exemption to development standards (as detailed below) to accompany the development application and would also trigger determination by the Northern Beaches Local Planning Panel.

Strict compliance with the control in these circumstances is not unreasonable and Council does not consider there are sufficient environmental planning grounds to justify a variation. Council would not support the Torrens title subdivision and recommends exploring options of Strata subdivision for the site.

## Clause 4.6 - Exceptions to Development Standards

Clause 4.6 enables the applicant to request a variation to the applicable Development Standards listed under Part 4 of the LEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court.

A request to vary a development Standard is not a guarantee that the variation would be supported as this needs to be considered by Council in terms of context, impact and public interest and whether the request demonstrates sufficient environmental planning grounds for the variation.

## WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

WDCP 2011 can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/pages/plan/book.aspx?exhibit=DCP>

The following notes the identified non-compliant areas of the proposal only.

Part B Built Form Controls		
Control	Permitted	Proposed
<b>B3 Side Boundary Envelope</b>	5m at 45 degrees	Minor non-compliances
<u>Comment:</u>  Council recommends removing any building envelope non-compliances to ensure the development does not become visually dominant by virtue of its height and bulk. The side boundary envelope is measured from the northern and western side boundary.		
Control	Permitted	Proposed
<b>B5 Side Boundary Setbacks</b>	0.9m	0.2m – 0.3m (western side boundary)  0.3m – 1m (northern side boundary)
<u>Comment:</u>		



## Part B Built Form Controls

Council recommends a 0.9m setback to all structures on site and given the substantial redevelopment and change of use, the existing 0.2m and 0.3m side boundary setback would not be supported by Council.

The setback to the upper levels of each dwelling should be recessed and further setback to provide for visual articulation in accordance with D9 Building Bulk of the WDCP 2011.

## Part C Siting Factors

Control	Permitted	Proposed
<b>C3 Parking Facilities</b>	2 parking spaces per dwelling	4 parking spaces

### Comment:

The architectural plans provided indicate a single enclosed garage and a parking space on the proposed new driveway for the eastern dwelling and two parking spaces within an existing garage for the western dwelling.

Concerns have been raised by Council's development engineer regarding the use of the driveway for car parking. The tandem car parking arrangement in its current form is not likely to be supported given the expected gradient. Demonstration that compliance can be achieved will be required for any development application submission otherwise a redesign is required to address this concern.

Council recommends exploring options of providing for providing car parking with access off Wyndora Avenue. A minor variation to the secondary front setback control could be supported for parking structures along this frontage.

## Part D Design

Control	Permitted	Proposed
<b>D1 Landscaped Open Space and Bushland Setting</b>	40%	Approx. 35%

### Comment:

Given the significant redevelopment and change of use to intensify the site Council recommends providing a minimum of 40% landscaped area to mitigate the built form of the development. Although the proposal in its current form seeks to increase landscaped area, Council does not consider this to justify a contravention to the standard as this calculation includes the removal of unapproved hardstand and decking areas. Landscaping must be provided with open space and 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.



## Specialist Advice

### Landscape Officer

#### Summary

- An Arboricultural Impact Assessment will be required if new works are within 5m of existing trees.
- In this instance Landscape Plan(s) will be required to show how the proposal satisfies the relevant DCP clauses.
- 40% landscaped area shall be calculated per site and not wholly across the two sites.

The Statement of Environmental Effects shall include commentary of relevant landscape clauses of the DCP, and in this instance the following:

- D1 Landscaped Open Space and Bushland Settings
- E1 Preservation of Trees or Bushland Vegetation
- D13 Front Fences and Front Walls

The land is zoned R2 Low Density Residential and as such the objectives of the zone shall be satisfied.

#### D1 Landscaped Open Space and Bushland Settings

A Landscape Plan is required to demonstrate that the proposed development satisfies the DCP clause, including:

- Enable planting to maintain and enhance the streetscape,
- 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,
- Provide privacy between buildings and/or provide privacy to private open spaces.

Submit an appropriate Landscape Plan prepared by a suitably qualified professional (i.e. Landscape Architect or Landscape Designer). Please refer to Northern Beaches Council's Development Application Lodgement Requirements for what is required of the Landscape Plan(s).

Note: Landscaped area is defined under the WLEP as "means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area".

#### E1 Preservation of Trees or Bushland Vegetation

The SoEE shall include discussion on the trees and vegetation within the site and within adjoining properties. Should all trees and vegetation be 5 metres or less in height i.e. Exempt Species, no Arboricultural Impact Assessment is required, and this is to be reported in the SoEE.

For prescribed (protected) trees under the DCP, i.e. 5 metres and over, excluding Exempt Species, An Arboricultural Impact Assessment is required to provide clarification on which trees are to be retained, including tree protection measures, and which trees are to be removed. Regardless, should a report be prepared exempt species should be identified as a matter of course to assist Council in determining a development application and the landscape outcome in terms of retention or removal.



### **Specialist Advice**

The Arboricultural Impact Assessment report shall indicate the impact of development upon the existing trees within the site, and for any existing tree on adjoining properties located 5 metres from the site (including but not limited to impacts from building and/or associated excavation or fill zones).

The report shall be prepared by a qualified Arborist AQF Level 5 and shall cover assessment of excavation and construction impacts upon the SRZ and TPZ, tree protection requirements, and recommendations. Recommendations shall include the setback distance from each tree where no construction impact is to occur to ensure the long term retention of the tree.

Any development impact shall be outside of the structural root zone, and impact to the tree protection zone, for trees retained, shall be limited to satisfy AS4970-2009.

Existing trees and vegetation within adjoining property and within the road verge is not permitted to be impacted upon. Council does not support the removal of street trees unless the street tree is proven to present an arboricultural risk.

No impact to existing trees and vegetation within adjoining properties is acceptable, regardless of species type.

As a general principle, the site planning layout shall be determined following arboricultural investigations and recommendations. Any proposal to remove existing trees of moderate to high retention value will not be supported by Council if an alternative design arrangement is available, as assessed by Council.

### **Development Engineering**

The site is located in Region 2 – Central Catchments. The proposal is for a dual occupancy development and as such on-site stormwater detention is to be designed in accordance with either the Simplified Method or the Full Computation Method detailed in Sections 9.3.2.4 and 9.3.2.5 of Council's Water Management for Development Policy.

Stormwater from the site is to be collected and connected to the kerb in Harbord Road. The maximum allowable discharge to the kerb is to be limited to 20 litres per second for all storm events up to and including the 1% AEP.

The existing crossing in Wyndora Avenue will need to be reconstructed to suit the proposed garage. The profile is to be in accordance with Council's Normal Profile. The new crossing may impact upon the street tree which may need assessment by an Arborist and comments by Council's Landscape Officer.

The proposed crossing off Harbord Road is to be positioned closer to the northern boundary to permit a minimum of 6 metres between the existing blister island and the wing of the new crossing for one vehicle to park on the street.

The driveway crossing is to be designed in accordance with Council's Normal High profile. The existing service pit in the footpath will need to be adjusted to suit. Concurrence for the adjustment and provision of the driveway over this asset must be provided by the service authority with the DA submission.





### Specialist Advice

The plans indicate a second parking spot on the driveway accessing the proposed garage. The grade of the parking area must not exceed 1 in 20 (5%) in accordance with AS/NZS2890.1:2004. A long section demonstrating compliance must be provided with the DA submission.

### Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Scaled and dimensioned plans:
  - Site Plan;
  - Floor Plans;
  - Elevations; and
  - Sections.
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- Cost of works estimate/ Quote
- Survey Plan (Boundary Identification Survey)
- BASIX Certificate (for each dwelling)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan (if any change is proposed to the driveway)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Landscape Plan
- Arboricultural Impact Assessment (if triggered)
- Subdivision Plans (if subdivision proposed)

### IMPORTANT NOTE FOR DA LODGEMENT

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>

The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

### Concluding Comments

These notes are in response to a pre-lodgement meeting held on 1 October 2024 to discuss alterations and additions to existing structures for use as a detached dual occupancy and associated works, including torrens title subdivision at 90 Harbord Road, Freshwater. The notes reference the plans prepared by James Campbell (JDC Architect) dated 19 September 2024.

While the current design is not able to be supported, a dual occupancy on the subject site can be achieved.



### **Concluding Comments**

However, if the site is redeveloped as such, it is strongly recommended that only the existing dwelling remain with all other structures demolished. The existing dwelling can then be altered and added to and a new, compliant second dwelling (either attached or detached) constructed. Minor variations to use the existing western garage may be supported but two spaces must be provided for each dwelling.

Council has been very consistent in enforcing compliance for new dual occupancies since the amendment to the Housing SEPP came into force. The redevelopment of this site is substantial enough to achieve a very high level of compliance.

### **Question on these Notes?**

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.