

RESIDENTIAL DEVELOPMENT – DEVELOPMENT APPLICATION ASSESSMENT REPORT

Development Application Number:	DA2017/0386
Planner:	Phil Lane
Property Address:	1108 Oxford Falls Road, Oxford Falls
Proposal Description:	Alterations and Additions to an existing Dwelling-house, including a Secondary Dwelling
Recommendation:	APPROVED – DEFERRED COMMENCEMENT
Clause 20 Variation:	Yes – Front and Side setbacks
Proposal in Detail:	<p>The proposal is to undertake alterations and additions to the existing dwelling which includes the following works;</p> <ul style="list-style-type: none"> • The reconfiguration of the existing ground floor to orientate the family living towards the rear • New single story addition at the rear with an external covered patio • Swimming pool • Secondary dwelling • New concrete driveway and turning area • New double garage
History and Background:	BC2016/0044 - Steel framed & metal clad shed and masonry wall/fence issued on 9 August 2016.

Plans Reference

Drawing Number	Title	Revision	Dated	Drawn By
84117.01	Site Plan – Site Analysis Plan		April 2017	HAS Architects
8417.01A	Landscape Area Plan		April 2017	HAS Architects
84117.02	Floor Plans		April 2017	HAS Architects
84117.03	Elevations		April 2017	HAS Architects
84117-SH1	Shadow Diagram – 9am		April 2017	HAS Architects
84117-SH2	Shadow Diagram – 12 noon		April 2017	HAS Architects

84117-SH3	Shadow Diagram – 3pm		April 2017	HAS Architects
	Shadow diagrams certification		April 2017	HAS Architects
	Notifications - Elevations		April 2017	HAS Architects
	Notifications Site Plans		April 2017	HAS Architects
18628	Survey Report		April 2017	HAS Architects
B172894	Bushfire Protection Assessment Report		18/04/2017	Australian Bushfire Planners
0001491728	BASIX Assessor Certification		13/04/2017	Building Sustainability Assessments
A278183	BASIX Certificate - Dwelling		13/04/2017	Building Sustainability Assessments
812860S	BASIX Certificate – Granny Flat		13/04/2017	Building Sustainability Assessments
20617-1	Stormwater Concept Plan and Certification		13/04/2017	Taylor Consulting Engineers
	Statement of Environment Effects		28/04/2017	Colco Consulting Pty Ltd

Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes
Section 2 – Issues Assessment	Yes
Section 3 – Site Inspection	Yes

Notification Required:	Yes	14 DAYS
Submissions Received:	No	Number of Submissions: Nil
Cost of Works:	\$594,000	

Section 94A Applicable	Yes	Total: \$5940.00
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Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of	\$	594000
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$5643.00
S94A Planning and Administration	0.05%	\$297.00
Total		\$ 5940.00

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2000

Locality: B2 Oxford Falls Valley

Development Definition: Housing – Dwelling house

Category of Development: Category 2 (housing)

Desired Future Character Statement: Oxford Falls Valley Locality

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming to the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridge tops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Is the development consistent with the Locality's Desired Future Character Statement? Yes

Category 2 Assessment against the Desired Future Character Statement

Requirement: Future development will be limited to new detached style housing conforming to the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridge tops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

Comment: The proposal comprises the alterations and additions to an existing dwelling house and construction of a new secondary dwelling house (within the building footprint) and garage. Works will be carried out over (and extending further) than the existing building footprint.

In this regard, a principal and secondary dwelling house in landscape settings will result which will complement the surrounding natural landscape and bushland features of the site. Further, the development is located on the lower side of the escarpment and cannot be viewed from Narrabeen Lagoon and the Wakehurst Parkway.

Requirement: The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Comment: The external finishes and materials of the resultant dwelling will blend with the colours and textures of the natural landscape will be strongly encouraged.

The development does not impact on the bushland buffer along Forest Way and Wakehurst Parkway nor does fencing detract from the landscaped vista of the streetscape.

The natural landscape surrounding the development, including landforms and vegetation will remain protected. Proposed landscaping of the existing (and required) bush fire asset protection zone will enhance the landscape setting of the site more than the existing situation.

Stormwater is to be directed by gravity to the Middle Creek by downpipes, pits and trenches. As such, Narrabeen Lagoon and its catchment will not be polluted or flooded by the development.

BUILT FORM CONTROLS

Built Form Compliance Table B2 Oxford Falls Valley Locality Statement					
Built Form Standard		Required	Proposed	Comment	Compliance
Building Height	Ridge	8.5m	8.25m	N/A	Yes
	Ceiling	7.2m	6.6m	N/A	Yes
Housing Density		1 dwelling per 20ha	1726sqm	*Existing allotment	Yes
Front Setback		20m	18.6m (dwelling) 14.285m	N/A	No

Built Form Compliance Table B2 Oxford Falls Valley Locality Statement				
Built Form Standard	Required	Proposed	Comment	Compliance
		(garage)		
Side Setback	10m (south)	1.5m (dwelling) 1.2m (swimming pool)	N/A	No
Side Setback	10m (north)	4.4m (dwelling) 5.5m (swimming pool)	N/A	No
Rear Building Setback	10m	40.2m	N/A	Yes
Landscape Open Space	30% (517.3sqm)	56% (965.5sqm)	N/A	Yes

* Granny flats are not considered to be a dwelling and are limited to one per allotment.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	Satisfactory	Yes, subject to conditions
CL42 Construction Sites	Yes	Satisfactory. A sediment and erosion control plan forms part of the application.	Yes, subject to conditions
CL43 Noise	Yes	Satisfactory	Yes
CL44 Pollutants	Yes	Satisfactory	Yes
CL47 Flood Affected Land	Yes	Satisfactory	Yes
CL49 Remediation of Contaminated Land	Yes	The site has been used for residential purposes for a significant period of time and it is therefore considered that the site poses no risk of contamination. 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.	Yes
CL50 Safety & Security	Yes	Satisfactory	Yes
CL54 Provision and	Yes	Satisfactory, the site has existing utility	Yes, subject to

General Principles	Applies	Comments	Complies
Location of Utility Services		connections except for sewerage. In this regard, the application was referred to Council's Environmental Health and Protection Officer where the application was recommended for approval.	conditions
CL56 Retaining Unique Environmental Features on Site	Yes	Satisfactory	Yes, subject to conditions
CL57 Development on Sloping Land	Yes	Satisfactory	Yes, subject to conditions
CL58 Protection of Existing Flora	Yes	Satisfactory	Yes, subject to conditions
CL60 Watercourses & Aquatic Habitats	Yes	<p>Satisfactory</p> <p>A watercourse (Middle Creek) runs adjacent to the western boundary. The proposed development, including excavation works, will not impact on the watercourse subject to appropriate conditions of consent that require sediment and erosion control measures to be implemented prior and during construction.</p> <p>Based on the above, the proposal is considered to achieve the objectives of the General Principle.</p>	Yes, subject to conditions
CL61 Views	Yes	Satisfactory	Yes
CL62 Access to sunlight	Yes	Satisfactory	Yes
CL63 Landscaped Open Space	Yes	Satisfactory	Yes
CL63A Rear Building Setback	Yes	Satisfactory	Yes
CL64 Private open space	Yes	Satisfactory	Yes
CL65 Privacy	Yes	Satisfactory	Yes
CL66 Building bulk	Yes	Satisfactory	Yes
CL67 Roofs	Yes	Satisfactory	Yes
CL68 Conservation of Energy and Water	Yes	Satisfactory	Yes
CL70 Site facilities	Yes	Satisfactory	Yes

General Principles	Applies	Comments	Complies
CL71 Parking facilities (visual impact)	Yes	Satisfactory	Yes
CL72 Traffic access & safety	Yes	Satisfactory	Yes
CL74 Provision of Carparking	Yes	Satisfactory	Yes
CL75 Design of Carparking Areas	Yes	Satisfactory	Yes
CL76 Management of Stormwater	Yes	Satisfactory	Yes, subject to conditions
CL77 Landfill	Yes	Satisfactory	Yes
CL78 Erosion & Sedimentation	Yes	Satisfactory	Yes, subject to conditions

SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	Yes	Yes
Schedule 6 Preservation of bushland	Yes	Yes
Schedule 7 Matters for consideration in a subdivision of land	No	N/A
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	No	N/A
Schedule 10 Traffic generating development	No	N/A
Schedule 11 Koala feed tree species and plans of management	No	N/A
Schedule 12 Requirements for complying development	No	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	No	N/A
Schedule 14 Guiding principles for development near Middle Harbour	No	N/A
Schedule 15 Statement of environmental effects	Yes	Yes
Schedule 17 Carparking provision	Yes	Yes

OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:

STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS			
POLICY	ASSESSMENT	YES /NO /N/A	COMPLIES
SEPP - BASIX	BASIX Certificate supplied?	Yes	Yes
SEPP – 55	Based on the previous land uses if the site likely to be contaminated? Is the site suitable for the proposed land use?	No	Yes
SEPP INFRASTRUCTURE	Is the proposal for a swimming pool, or Within 30m of an overhead line support structure? Within 5m of an overhead power line?	Yes	Yes

EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Conditioned
Clause 54 & 109 (Stop the Clock)	No	N/A
Clause 92 (Demolition of Structures)	Yes	Yes
Clause 92 (Government Coastal Policy)	N/A	N/A
Clause 93 & 94 (Fire Safety)	Yes	Yes
Clause 94 (Upgrade of Building for Disability Access)	No	N/A
Clause 98 (BCA)	Yes	Yes

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Development Engineers	The application was referred to Council's Development Engineer and no concern was raised in relation to the proposal subject to conditions of consent.	Yes
Natural Environment Officer (Bushland and Biodiversity)	The application was referred to Council's Natural Environment Officer Development Engineer and no concern was raised in relation to the proposal subject to conditions of consent (should the application be approved).	Yes
Natural Environment - Flood	The application was referred to Council's Natural Environment Officer Development Engineer and no concern was raised in relation to the proposal.	Yes
Building Assessment	<i>"No objections to proposed additions and alterations, including an attached secondary dwelling subject to conditions being applied to ensure adequate"</i>	Yes

Referral Body Internal	Comments	Consent Recommended
	<p><i>'separation of Occupancies' occurs so as to comply with the Fire Safety provisions and Sound Transmission requirements of the Building Code of Australia. Additionally, compliant Laundry Facilities are to be provided.</i></p> <p><i>It is also noted that an unauthorized masonry block wall still exists within the Riparian Zone at the rear of the property and it is recommended that the Development Consent be conditioned to require removal of this portion of the wall during the construction period. This part of the wall was excluded from a previous Building Certificate issued in respect of other matters on the property."</i></p>	
Environmental Health and Protection	Environmental Health recommends Deferred Commencement for the wastewater system subject to recommended conditions	Yes (Deferred Commencement)

Referral Body External	Comments	Consent Recommended
Ausgrid	The application was referred to the Ausgrid and no concern was raised in relation to the proposal subject to a condition which has been included in the Recommendation should the application be approved.	Yes

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
EPA Act 1979	Yes
EPA Regulations 2000	Yes
Disability Discrimination Act 1992	N/A
Local Government Act 1993	N/A
Roads Act 1993	N/A
Rural Fires Act 1997	Yes
RFI Act 1948	N/A
Water Management Act 2000	N/A
Water Act 1912	N/A
Swimming Pools Act 1992	N/A
SEPP No. 55 – Remediation of Land	Yes
SEPP No. 64 – Advertising and Signage	N/A
SEPP No. 71 – Coastal Protection	N/A

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
SEPP BASIX	Yes
SEPP Infrastructure	Yes
WLEP 2000	Yes
WDCP	Yes
DWLEP 2009	N/A
S94 Development Contributions Plan	N/A
S94A Development Contributions Plan	Yes
NSW Coastal Policy (cl 92 EPA Regulation)	N/A

Section 79C "Matters for Consideration"	
Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	Yes
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 79C (1) (a)(iia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	Yes
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	Yes
Section 79C (1) (c) – Is the site suitable for the development?	Yes
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	Yes
Section 79C (1) (e) – Is the proposal in the public interest?	Yes

SECTION 2 – ISSUES

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

BUILT FORM CONTROLS

As detailed within Section 1 (Code Assessment) the proposed development does not comply with the following Built Form Controls, accordingly, further assessment is provided hereunder.

Clause 20 Variation

Consent may be granted to proposed development even if the development does not comply with one or more development standards, providing the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State Environmental Planning Policy.

NON-COMPLIANCE:

Description of variations sought and reasons provided:

Front Setback

Areas of inconsistency with controls:

The proposed garage has a 14.285m setback and the existing dwelling has an 18.6m setback to the front eastern boundary, which does not comply with the minimum requirement of 20m.

It is considered that there is adequate spatial separation to the surrounding and adjoining properties including dwellings and associated outbuildings to ensure consistency with this control.

Having regard to the above, the non-compliance will not set a precedent for future buildings to encroach the front setback requirement.

Side Setback

Areas of inconsistency with controls:

The proposed dwelling has a 1.5m side setback to the southern side boundary 4.4m from the northern side boundary and the garage is to be located 0.95m from the southern side boundary and 10.2m from the northern side boundary. In addition the swimming pool area is to be located 1.2m from the southern boundary and 5.5m from the northern side boundary, which does not comply with the minimum 10m requirement.

The existing dwelling house itself has varying side setbacks from 4.145m to 4.7m, which does not comply with the minimum 10m setback requirement of the control. It is noted that the existing allotment is only 21.22m in width at the front boundary and only 17.68m at the rear which makes compliance with this setback requirement very difficult.

It is considered that there is adequate spatial separation to the surrounding and adjoining properties including dwellings and associated outbuildings to ensure consistency with this control.

Having regard to the above, the non-compliance will not set a precedent for future buildings to encroach the front setback requirement.

Desired Future Character

The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

Relevant State Environmental Planning Policies

The proposal has been assessed as being consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies'). Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1). As detailed above, the proposed development satisfies the requirements to qualify for consideration under Clause 20(1). It is for this reason that the variation to the front and side setbacks pursuant to Clause 20(1) is supported.

Conclusion - Clause 20 Variation

As detailed above, the resulting development is assessed as being consistent with the general principles of development control, the desired future character of the locality and relevant State Environmental Planning Policy. In this regard, Consent may be granted to proposed development.

SECTION 3 – SITE INSPECTION ANALYSIS



SITE AREA:

Detail existing onsite structures:

- Dwelling house
- Shed
- Front and side fences
- Rear wall (not approved – within riparian zone)

Site Features:

Site constraints and other considerations	
Bushfire Prone?	Yes
Flood Prone?	Yes
Affected by Acid Sulphate Soils	N/A
Located within 40m of any natural watercourse?	Yes
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?	N/A
Located within 100m of the mean high watermark?	N/A
Located within an area identified as a Wave Impact Zone?	N/A
Any items of heritage significance located upon it?	N/A
Located within the vicinity of any items of heritage significance?	N/A
Located within an area identified as potential land slip?	N/A
Is the development Integrated?	N/A
Does the development require concurrence?	N/A
Is the site owned or is the DA made by the "Crown"?	N/A
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	N/A

SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY:

Does the site inspection <Section 3> confirm the assessment undertaken against the relevant EPI's <Section's 1 & 2>?	Yes
Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?	No
Are there any existing unauthorised works on site?	Yes, rear wall within the riparian zone (not approved via BC2016/0044)
If YES has the application been referred to compliance section for comments?	No, a condition has been included for the

	removal of the rear wall prior to the issue of any occupation certificate.
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Signed

Date 14 August 2017

Phil Lane, Principal Planner

SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. 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.

RECOMMENDATION - APPROVAL (DEFERRED COMMENCEMENT)

That Council as the consent authority:

GRANT DEVELOPMENT CONSENT to the development application subject to:

The conditions detailed within the associated notice of determination; and

“I am aware of Council’s Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest”



Signed

Date 14 August 2017

Phil Lane, Principal Planner

The application is determined under the delegated authority of:

Signed

Date : 14 August 2017

Steven Findlay, Development Assessment Manager

