



DEVELOPMENT ASSESSMENT REPORT

Planner: Anne-Marie Young
Address / Property Description: Lot X DP 395065
1107 Oxford Falls Road FRENCHS FOREST
Alterations and additions to an existing dwelling

Development Application No: DA2020/1176
Application Lodged: 28/09/2020
Amended Plans: None
Applicant: Spiro Toursounoglou
Owner: S Toursounoglou, D Toursounoglou

Locality: Warringah LEP2000 - B2 Oxford Falls Valley
Category: Category 2 "housing"
Referred to WDAP: No
Land and Environment Court Action: No

SUMMARY

Submissions: None
Assessment Issues: Breach of side setback
Recommendation: APPROVAL

PROPOSED DEVELOPMENT

The proposal seeks development consent for the alterations and additions to the existing dwelling house including a large two storey extension adjoining the west of the existing dwelling and bedroom extensions to the east, a pool, a new driveway to Oxford Falls Road and landscape work. In detail, the proposal involves the following:

Ground Floor

- Foyer, Sunroom (new work to the west).
- Kitchen, laundry, living area, library (new work to the west).
- Bedroom 6 with ensuite and walk in wardrobe (new work to the east).
- Internal alterations to existing floor plan to create a large open space, storage area bar, study and bathroom.

First Floor

- A bathroom and 3 additional bedrooms. Bedroom one (1) has an ensuite and terrace, bedroom 3 has a balcony (new work to the west).
- Bedroom 5 with ensuite and walk in wardrobe (new work to the east).
- Internal alterations to existing floor plan to create family room art studio, bedroom, bathroom and extension to the north facing terrace.

External

- New driveway access via Oxford Falls Road to access the retained existing garage.
- Pool and cabana to the north.
- Landscape work including paving and retaining walls

LOCALITY PLAN



Subject Site: 1107 Oxford Falls Road FRENCHS FOREST

Public Exhibition: The subject application was notified to six (6) adjoining properties for a period of 14 days from 30 September 2020 to 19 October 2020.

SITE DESCRIPTION

The subject site consists of one (1) allotment located on the western side of Oxford Falls Road at the intersection with Wearden Road.

The site is trapezoid in shape with a frontage of 50.875m along Oxford Falls Road and a depth of between 91m and 64m. The site has a surveyed area of 3244m²

The site is located within the B2 Oxford Falls Valley locality and accommodates an existing two storey brick and clad dwelling house with a detached two storey dwelling with a large garage accessed via Wearden Road and extensive lawns.

A natural water course crosses through the land at the rear south-west corner and this area is zoned as a riparian buffer. The site is generally level with a slight fall from east to west towards the creek at the rear.

The landscape character of the site is primarily of lawn with a variety of native and non-native canopy trees and shrubs are located along the eastern and western boundary.

Detailed Description of Adjoining / Surrounding Development

Adjoining development comprises detached dwellings, stables and other farm sheds.

SITE HISTORY

The site has been used for residential purposes for an extended period of time. A search of Council records revealed the following relevant history.

DA2017/1053

On 10 January 2018, development consent was granted for alterations and additions to the dwelling house secondary dwelling and swimming pool.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Australian Bushfire Consulting Services, dated 29/06/2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979); and
- b) Environmental Planning and Assessment Regulations 2000.
- c) Rural Fires Act 1997 (RFA 1997)

- d) State Environmental Planning Policy No 55 – Remediation of Land
- e) Warringah Local Environment Plan 2000 (WLEP 2000)
- f) Warringah Development Control Plan 2000 (WDGP 2000)
- g) Northern Beaches 7.12 Contributions Plan 2019
- h) State Environmental Planning Policy (Infrastructure) 2007

PUBLIC EXHIBITION

The subject application was notified to six (6) adjoining properties for a period of 14 days from 30 September 2020 to 19 October 2020.

As a result of the notification no submissions were received.

MEDIATION

Has mediation been requested by the objectors?	No
Has the applicant agreed to mediation?	N/A
Has mediation been conducted?	No

LAND AND ENVIRONMENT COURT ACTION

No Court Appeal had been lodged at the time of finalising this report.

REFERRALS

External Referrals

Ausgrid

No objections.

Internal Referrals

Environmental Health (unsewered lands)

Assessment of the on-site wastewater system report -amended to remove the drip irrigation disposal from the riparian area, and including a MEDLI design.

Environmental Health are satisfied with the modifications to the disposal system, and recommend approval subject to the subsurface drip irrigation installation being done according to the aforementioned report. This includes, especially, diversion of uphill surface waters away from the disposal area. Recommendation: Approval subject to conditions.

Landscape Officer

The development application is for alterations and additions to existing dwelling including ground floor and first floor additions, reconfiguration, vehicle garaging, swimming pool, gazebo, waste water system, landscaping and driveway access.

Council's Landscape Referral section have assessed the application against the Warringah Local Environment Plan, and against the following Warringah DCP 2013:

- D1 Landscaped Open Space and Bushland Setting
- E1 Preservation of Trees and Bushland Vegetation
- E6 Retaining unique environmental features

The existing site is predominately a cleared site with existing dwelling, extensive lawn, scattered small trees at the boundary perimeter, and a watercourse at the rear of the property. Extensive landscape works are proposed that satisfy the objectives of the Warringah Local Environment Plan Warringah DCP 2013 clauses D1, E1 and E6.

The site is identified as bush fire prone land and all new landscaping shall comply with section 3.7 Landscaping, and Appendix 4 - Asset Protection Zone Requirements, of Planning for Bush Fire Protection 2019.

Landscape Referral raise no objections to the proposal subject to the protection of existing trees and vegetation, and the completion of landscape works.

Development Engineer

The proposal is generally acceptable however the applicant is to demonstrate the proposed ground floor levels are above the 1 in 100 year flood planning levels. A referral to the flood plain engineering team is recommended for concurrence.

(Riparian Lands and Creeks)

This application has been assessed against relevant legislation for waterways.

Groundwater was not encountered during the geotechnical assessment. However if groundwater is encountered during works, the applicant must ensure dewatering is in compliance with Council's conditions. Any outlets into the creek must be designed in accordance with DPI Water's Guidelines for Outlet Structures on Waterfront land.

As the proposed works increase impervious areas by more than 50m² a water quality improvement device must be installed prior to the commencement of works, it must allow for safe and regular maintenance. Standard sediment and erosion controls are to be implemented prior to works and removed only once groundcover has been established. These measures must be detailed in an Erosion and Sediment Control Plan (ESCP).

With the application of these conditions it is considered unlikely that the application will have an adverse impact on the integrity and resilience of the biophysical, ecological and hydrological environment. It is therefore recommended for approval subject to conditions.

Stormwater and Floodplain Engineering – Flood risk

The property is partially within the Low Flood Risk Precinct.

There are no applicable flood related development controls.

Water Management

The Riparian referral has addressed most of the water management requirements. More detail is provided below.

Pits P1 and P14 must be altered to be sediment filter pits, to meet the requirements of the Water Management for Development Policy for water quality, capturing coarse sediment and organic matter before stormwater is discharged to the creek.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been address via a condition of consent.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been address via a condition of consent.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has been address via a condition of consent.</p> <p>Clause 50(1A) of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p>

Section 79C 'Matters for Consideration'	Comments
	<p>Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.</p> <p>Clause 143A of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a CC. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will / will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will / will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The site is considered un/suitable for the proposed development.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	<p>See discussion on “Public Exhibition” in this report.</p>
Section 79C (1) (e) – the public interest	<p>No matters have arisen that would justify the refusal of the application in the public interest.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

Warringah Local Environmental Plan 2011 (“Deferred Matter)

The subject site falls within the area designated as a ‘deferred matter’ which is subject to future zoning considerations by the NSW Department of Planning. Previous advice from the Department applies and Council has not been informed of any zoning change that has become recently “imminent or certain” for the future incorporation of the subject land into Warringah LEP 2011.

Therefore, for the purposes of this assessment, no further consideration of the provisions of WLEP 2011 is required.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 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.

State Environmental Planning Policy - BASIX

A BASIX certificate has been submitted with the application. All required BASIX commitments have been noted on the application plans. Furthermore a condition of consent has been imposed requiring compliance with the requirements of the applicable BASIX certificate.

State Environmental Planning Policy - Infrastructure

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out as a result the application was referred to Ausgrid who offered no objections to the application.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

1 Desired Future Character (DFC)

The subject site is located in the B2 Oxford Falls Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops 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.

The proposal involves the alterations and additions of a 'Dwelling' as defined under the WLEP 2000. Under the B2 Oxford Falls Valley Locality Statement, "housing" is a Category 2 land use.

Clause 12(3)(b) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Desired Future Character (DFC) statement under the relevant locality statement.

Accordingly, an assessment of consistency of the proposed development against the various elements of the locality's DFC is provided hereunder:

- Although the extension is extensive the work is primarily set back from the primary street frontage to the rear of the dwelling and will not result in adverse visual impacts from the primary frontage. The proposal will not impact the present character of the Oxford Falls Valley locality which includes other large dwellings set back from the road frontage.
- A vegetation buffer will be retained and enhanced between the existing dwelling and Oxford Falls Road. The landscaping will help reduce any perceived visual impact on the bulk and massing of the development.
- The proposal does not result in an increased housing density on the site.
- No significant vegetation is proposed for removal as part of this application and the proposal complies with Landscaped Open Space.
- The proposal will not impact on the watercourse that runs through the rear of the site.

The proposed development is considered to be consistent the desired future character for the B2 Oxford Falls Valley Locality.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built Form Controls of the above locality statement

Built Form Standard	Required	Proposed Development	Compliance
Building Height	7.2m (ceiling)	5.5m	Yes

Built Form Standard	Required	Proposed Development	Compliance
	8.5m (overall building height)	7.8m	
Front Building Setback	<u>Primary frontage</u> (Oxford Falls Road) - 20m to the wall of the dwelling (Oxford Falls Rd) <u>Secondary frontage</u> 4.2m to the pool cabana	<u>Primary frontage</u> (Oxford Falls Road) - 22m to the wall of the dwelling. 18.7m measured at a 90 degree angle. <u>*Secondary frontage (Wearden Road)</u> 4.2m to the pool cabana and 19.5m to the wall of the dwelling	Yes As a corner site the setback to the secondary frontage has been assessed as acceptable.
Rear and side setback	10m	<u>Rear</u> - 21m <u>Southern side</u> - 2m (the extended garage).	Yes No
Landscape Open Space	30%	65.5%	Yes
Car parking	2 spaces	X There is no max requirement	Yes

The proposed development does not satisfy the Side Setback Built Form Control. Accordingly, further assessment is provided against the provisions of Clause 20(1) hereunder.

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided 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.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is generally consistent with / the development fails consistency with Clause/s # of the General Principles of Development Control and accordingly, qualifies / fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with / the development fails consistency with the Locality’s Desired Future Character Statement and accordingly, qualifies / fails to

qualify 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).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent / inconsistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly the proposal qualifies / fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Side Building Setback

The B2 Oxford Falls Valley Locality Statement requires development to maintain minimum side building setbacks of 10.0m. The proposal includes a 1.2m extension of the existing garage which will result in the extended structure being positioned 1.4m from the southern side boundary.

Merit consideration of non-compliance

Consideration of the proposal against the merit considerations is detailed below:

- *To provide opportunities for deep soil landscape areas*

Comment: The proposal complies with the LOS requirement. There is substantial opportunities for deep soil planting.

- *To ensure that development does not become visually dominant*

Comment: The garage is existing and the 1.2m extension is ancillary and will not in itself result in an unreasonable visual impacts from the public street given the 30m setback of the garage to Oxford Falls Road. Landscaping is proposed along all boundaries to reduce the visual impact of the structure.

- *To ensure that the scale and bulk of buildings is minimised*

Comment: While the extension exceeds the footprint of the existing dwelling the scale and bulk of the dwelling has been assessed as acceptable given the site area and the setback of the dwelling approximately 20m from the primary and secondary frontages. The proposal has a FSR of 0.16:1 and is set within an extensive landscape setting which amounts to 65.5% of the site area.

The proposal generally complies with the built form controls and the non-compliance with respect to the site setback relates primarily to an existing non-compliant structure. The minor increase in the size of the garage will not in lead to any issues with respect of unreasonable scale and bulk. Furthermore, the proposal is surrounded by landscaping that ensures the built form is well integrated into the natural setting.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment: The proposed dwelling has a sufficient setback from the neighbouring dwelling to the south to maintain privacy. Shadow diagrams have also been submitted which confirm that the extension will not result in unreasonable overshadowing. In summary, the proposal will ensure that there is adequate separation between buildings to maintain amenity.

- *To provide reasonable sharing of views to and from public and private properties*

Comment: The proposal would not have any unreasonable impact on views. Therefore, it is considered that the proposal will satisfy this merit consideration.

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1). In addition, the proposal is considered to be consistent with the underlying objectives of the Side Setback Built Form Control. It is for these reasons, that the variation to the Side Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

2 General Principles of Development Control

The following (relevant) General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	The Development does not result in overspill or glare from artificial illumination, or sun reflection, and does not unreasonably diminish the amenity of the locality. CONDITION on materials	Yes
CI42 Construction site	Yes	Appropriate standard conditions would adequately address the construction requirements associated with the use proposed on the site	Yes
CL 43 Noise	Yes	Complies	Yes
CL44 Pollutants	Yes	Complies	Yes
CL 47 Flood effected land	Yes	Refer to Flooding comments	Yes
CL50 Safety and Security	Yes	Complies	Yes
CL52 Development Near Parks, Bushland Reserves & other public spaces	Yes	Complies	Yes
CL51 Front Fences and Walls	Yes	An existing brick fence provides the boundary treatment to Oxford Falls Road and a timber fence to Wearden Road	Yes

General Principles	Applies	Comments	Complies
CL54 Provision and Location of Utility Services	Yes	Complies	Yes
CL56 Retaining Unique Environmental Features on Site	Yes	There are no unique features on the site	Yes
CL58 Protection of Existing Flora	Yes	Complies	Yes
CL60 Watercourses & Aquatic Habitats	Yes	Complies	Yes
CL61 Views	Yes	Complies	Yes
CL62 Access to sunlight	Yes	Complies	Yes
CL63 Landscaped Open Space	Yes	Complies	Yes
CL63A Rear Building Setback	Yes	Complies	Yes
CL64 Private open space	Yes	Complies	Yes
CL65 Privacy	Yes	Complies	Yes
CL66 Building bulk	Yes	Although the extension is large the dwelling is set back from the street frontage in a landscaping setting within a large site. The scale and massing of the proposed dwelling is similar to other in the locality.	Yes
CL67 Roofs	Yes	Complies	Yes
CL68 Conservation of Energy and Water	Yes	Complies	Yes
CL70 Site facilities	Yes	Complies	Yes
CL71 Parking facilities (visual impact)	Yes	Complies	Yes
CL73 On-site Loading and Unloading	Yes	Complies	Yes
CL74 Provision of Carparking	Yes	Complies – the proposal exceeds the minimum 2 space requirement as the owner has a car collection and requires additional garage space for storage. There is no maximum car parking space therefore the proposal has been assessed as acceptable.	Yes
CL75 Design of Carparking Areas	Yes	Complies	Yes

General Principles	Applies	Comments	Complies
CL76 Management of Stormwater	Yes	Complies	Yes
CL78 Erosion & Sedimentation	Yes	Complies	Yes

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019.

The proposal is subject to the application of the Northern Beaches Section 7.12 Contributions Plan 2019. A suitable condition would be imposed should the application be approved

RECOMMENDATION -

THAT Council as the consent authority grant Development Consent to DADA2020/1176 for Alterations and Additions, Dwelling House on land at 1107 Oxford Falls Road FRENCHS FOREST subject to the conditions printed below:

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

Date 3 February 2021

Anne-Marie Young, Planner

Date 3 February 2021

Lashta Haidari, Acting Planning Assessment Manager

