

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1891
Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 82 DP 1033258, 46 Wheeler Parade DEE WHY NSW 2099
Proposed Development:	Alterations and additions to a dwelling house
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:	Cameron Hunter Glover
Applicant:	Cameron Hunter Glover
Application lodged:	29/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	05/12/2018 to 11/01/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Refusal
Estimated Cost of Works:	\$ 160,000.00

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 Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 5.4 Controls relating to miscellaneous permissible uses
 Warringah Development Control Plan - A.5 Objectives
 Warringah Development Control Plan - A.7 Exhibition, Advertisement and Notification of Applications
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 82 DP 1033258 , 46 Wheeler Parade DEE WHY NSW 2099
Detailed Site Description:	<p>The site is known as 46 Wheeler Parade, Dee Why and is legally referred to as Lot 82 DP1033258. The subject site consists of one (1) allotment located on the eastern side of Wheeler Parade.</p> <p>The site is regular in shape with a frontage of 15.035m along Wheeler Parade and a depth of 19.49m. The site has a surveyed area of 293m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two storey brick dwelling located centrally on the site.</p> <p>The slope of the site 8.1% and falls from the road frontage to the rear boundary</p> <p>The site contains a modified landscape setting, with vegetation limited to bamboo and large shrubs within the front yard and a turfed lawn area towards the rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings within a landscaped setting.</p>

Map:



SITE HISTORY

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

10 November 2015

Council held a preliminary lodgment meeting (PLM2015/0129) with the owner and the owner's consultant for the alterations and additions to a dwelling house and construction of a carport on land at 46 Wheeler Parade. Preliminary plans were submitted at this meeting and the owners received notes outlining areas of non-compliance that required amendments prior to the lodgement of a development application.

APPLICATION HISTORY

29 November 2018

Development Application No. DA2018/1891 lodged for alterations and additions to a dwelling house.

14 January 2019

Site inspection undertaken for 46 Wheeler Parade.

Site inspection undertaken at neighbouring property (address withheld on request) to assess visual privacy concerns.

12 February 2019

A letter was issued to the applicant requesting that the application be withdrawn due to concerns that the proposed development would not meet the requirements in Clause 4.3 of the WLEP 2011 and clauses A.7, C3, D8 of the WDCP.

26 February 2019

The applicant did not contact Council by 26 February 2019, Council therefore assumed that the applicant did not wish to withdraw the application. As such, the application has been assessed in its current form.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to the existing dwelling including a carport. In particular, the works include:

Ground Floor

- Conversion of existing garage into two bedrooms and storage;
- Alteration of existing porch entry into a study; and
- Construction of a sunroom and laundry.

First Floor

- Construction of a double carport and driveway;
- Alteration of existing street frontage facing balcony into a front entry including a suspended porch and stairs connecting to the carport; and
- Enclosure of the existing rear facing balcony.

Second Floor

- Construction of a parents retreat with a bedroom and office.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development

Section 4.15 Matters for Consideration'	Comments
Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 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. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><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.</p> <p><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.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
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	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</p>
Section 4.15 (1) (c) – the suitability	The site is considered unsuitable for the proposed development.

Section 4.15 Matters for Consideration'	Comments
of the site for the 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	This assessment has found the proposal to be contrary to the relevant requirement(s) of the relevant standards of the WLEP 2011 and WDCP and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be 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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Withheld	DEE WHY NSW 2099

The following issues were raised in one (1) submission and each have been addressed below:

- Off-street parking
Comment:
A submission was received from the adjoining property owner, raising concerns as to level of compliance of the proposed carport and the existing garage. The design of the carport and driveway has not been supported by Development Engineering. See comments by Development Engineering under 'Referrals' and Clause C3 (Parking Facilities) for discussion.
- Landslip Hazard
Comment:
A submission was received from the adjoining property owner, raising concerns with the Preliminary Geotechnical Assessment. Council has reviewed the assessment and is satisfied the development in accordance with the requirements under Clause 6.4 (Development on sloping land) and Clause E10 (Landslip Risk).
- Use of ground floor as a secondary dwelling

Comment:

A submission was received from the adjoining property owner, raising concerns that the conversion of the existing garage to two bedrooms may result in the area being used as a self-contained dwelling. It is recommended that conditions of consent be imposed should the application be approved prohibiting the provision for any cooking facilities on the ground floor. See Clause 5.4 (Controls relating to miscellaneous permissible uses) for discussion.

- Visual privacy

Comment:

A submission was received raising concerns of overlooking towards the private open space of the adjoining property. It is considered that design of the north facing window (W6) is not acceptable. See Clause D8 (Privacy) for discussion.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.
NECC (Development Engineering)	<p>The applicant proposed to install a suspended carport at the boundary.</p> <p>The proposed carport level is about RL 49.79 on the western side and RL 50.51 on the eastern side based on the submitted elevation plan. It means the gradient of carport is about 11 % which exceed the maximum gradient of the parking facility in accordance with the section 2.4.6 of Australian Standard: Parking Facilities Part 1 (AS2890.1.2004).</p> <p>Furthermore, the gradient of the existing driveway crossing on road reserve is over - 25 % (1 V: 4H).</p> <p>When the carport is building at the property boundary, a transition section shall be provided to prevent the bottoming or scarping of the vehicle in accordance with the section 2.5.3 of AS 2890.1.2004.</p> <p>As the above, Development Engineering cannot support the application.</p> <p>The applicant shall amend the design of carport and driveway to comply with AS 2890.1.2004</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A316851_02, dated 25 October 2018).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

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?	No
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.6m	1.2%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	No
5.4 Controls relating to miscellaneous permissible uses	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.3 Height of buildings

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011.

4.6 Exceptions to development standards

The proposed development exceeds the maximum height which is 8.5m. The applicant has not provided a written request to vary the development standard within Clause 4.3 of the Warringah Local Environment Plan 2011. Therefore, Council can not be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, that the applicant has adequately demonstrated that there are sufficient environmental planning ground to justify contravening the development standard and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the development within the zone in which the development is proposed is carried out.

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.

5.4 Controls relating to miscellaneous permissible uses

In order to ensure that the ground floor is not used for the purposes of a secondary dwelling or separate habitation, a condition is recommended prohibiting the provision of cooking facilities within the ground floor should the application be approved.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.25m (Northern Elevation) 8.1m (Southern Elevation)	14.58% 12.5%	No No
B3 Side Boundary Envelope	5m	Within Envelope	N/A	Yes
	5m	Within Envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m	0.9m	N/A	Yes
	0.9m	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	0.5m	92.31%	No
B9 Rear Boundary Setbacks	6m	3.4m	43.4%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	31.12%	22.25%	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	No	No
A.7 Exhibition, Advertisement and Notification of Applications	No	No
B1 Wall Heights	No	No
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	No
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

The proposed development will result in a three (3) storey dwelling which is inconsistent with the qualities and built form of the surrounding neighbourhood along this particular area of Wheeler Parade. The proposal in its current form is inconsistent with the maximum height requirement and raises concern with regards to visual privacy resulting from the proposed second floor north facing window (W6) to the adjoining property at No. 70 Cassia Street. The suspended double carport that is proposed within the front boundary setback further impacts upon the streetscape along Wheeler Parade.

Based on the above, the proposal is considered inconsistent with the relevant objectives of this clause.

A.7 Exhibition, Advertisement and Notification of Applications

No evidence has been provided to Council by the applicant indicating that the notification sign had been placed in a prominent position on the site for the duration of the notification period. A site inspection carried out was also carried out by the assessing officer revealing that the notification sign had not been placed on site. Following the inspection a letter was sent to the applicant identifying a number of areas of non-compliance, including that with Part A.7 of the Warringah DCP 2011. No response to this letter was received by Council.

Based on the above, it is considered that the application has not complied with the requirements and objectives of this clause.

B1 Wall Heights

Description of non-compliance

The proposed second floor addition breaches the wall height by 1.05m (14.58%) on the northern elevation and 0.9m (12.5%) on the southern elevation.

Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The proposed development will result in a three (3) storey dwelling and will have a particular visual impact when viewed from adjoining properties. It is noted however that based on the topography of the site, that the dwelling will have an appearance of a two (2) storey dwelling viewed from Wheeler Parade.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The proposed development is considered to be generally beneath the existing tree canopy level.

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

Comment:

It must be noted that no evidence has been provided to Council by the applicant indicating that the notification sign had been placed in a prominent position on the site for the duration of the notification period. The proposed development however is generally considered to provide for a reasonable sharing of views to and from public and private properties.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The proposed development has raised concern with regards to visual privacy resulting from the proposed north facing window (W6) overlooking the private open space of the adjoining northern property. Council has received no response from the applicant to employ privacy measures to achieve consistency with the requirements of Part D8 of the WDCP.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The proposed development is generally considered to respond to site topography and does not propose excessive excavation of the natural landform.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposed development results in a mixture of roof forms including a skillion and pitched roof design. While the variation in roof design responds to side building envelope requirements, it is considered that there is greater scope for an innovative pitch and design approach that is consistent with the existing dwelling.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the aims and objectives of WDCP. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The proposed suspended double carport and associated access pathways is 0.5m from the front boundary resulting in a 92.31% variation of the 6.5m requirements.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The proposed carport has been designed in an open-style with all the side of the remaining open to maintain the streetscape along Wheeler Parade. Furthermore, the existing landscaped setting will be retained. Given the above, it is considered that the proposal reasonably maintains a sense of openness.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed carport is consistent with other adjoining and neighbouring car parking structures such as those at 70 and 74A Cassia Street which back onto Wheeler Parade. The design of the proposed carport is to be open-style which maintains the visual continuity and pattern along Wheeler Parade.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposal seeks to protect and enhance the visual quality of streetscapes and public places through the use of open-style carport design and the incorporation of design features such as an entry pathway that addresses Wheeler Parade.

- *To achieve reasonable view sharing.*

Comment:

The non-compliance to the front boundary setback is considered to achieve a reasonable sharing of views for surrounding properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed sun room and laundry with balcony above is 3.4m from the rear boundary resulting in a 43.4% variation to the 6m requirement. It should be noted that these proposed works are sited in generally the same location as the existing rear balcony area currently on site.

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 proposed development seeks to maintain the existing deep soil landscape areas within the rear yard with the works sited above an existing hard surface area. It is therefore considered that the proposal satisfies this objective.

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

Comment:

It must be noted that the subject site has a lot depth of 19.5m which makes compliance with the 6m requirement difficult to achieve. As discussed above, the proposed development seeks to maintain existing landscaped areas within the rear yard and the existing setback of 3.4m. It is therefore considered that the proposal satisfies this objective.

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

Comment:

The non-compliance to the rear boundary setback is considered to preserve the amenity of

adjacent land in relation to privacy between buildings.

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

Comment:

As discussed above, while the property has site constraints, the proposed development is considered to reasonably maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.

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

Comment:

The non-compliance to the rear boundary setback is considered to maintain existing privacy situation and not limit opportunities to enhance privacy.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

The proposed suspended double carport and associated driveway does not comply with Australian Standard: AS2890.1.2004.

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The gradient of the carport exceeds the maximum gradient of the a parking facility in accordance with the section 2.4.6 AS 2890.1.2004. Furthermore, the gradient of the existing driveway crossing on road resrve is over 25%. A transition section was to be provided to prevent the bottoming or scraping of the vehicle in accordance with section 2.5.3 of AS 2890.1.2004.

As per the table below, the proposed car parking arrangement of two (2) vehicle parking spaces meets the demands generated by the development.

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Dwelling	2 spaces	2	2	0

House	per dwelling, except for land known as Belrose Corridor (see Part G4) which has a maximum of 2 car spaces.			
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- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The open-style design and siting of the proposed carport has a minimal visual impact on the street frontage along Wheeler Parade.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The proposed carport is not consisted to dominate the street frontage or other public spaces.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Required Landscaped Area: 40% (117.2m²)

Proposed Landscaped Area: 31.12% (91.18m²)

The proposed development is non-compliant with the requirement for 40% of the site to be dedicated towards landscaped area.

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 proposed development generally maintains the landscaped setting consisting of established plantings and deep soil areas within the front setback area facing Wheeler Parade. As discussed in Clause B7, the proposal is considered to enhance the streetscape.

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

Comment:

The proposed development does not seek the removal of indigenous vegetation, topographical features and habitat for wildlife. As areas for future indigenous plantings are conserved towards the rear of the dwelling, the proposal is considered to comply with this particular objective.

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

Comment:

The proposed development provides opportunities for the establishment of plantings particularly within the rear yard of the site. While no canopy trees are proposed within the site, it must be noted that established screen plantings within the front yard visually reduce the built form when viewed from Wheeler Parade.

- *To enhance privacy between buildings.*

Comment:

While the proposed development does not indicate additional plantings, it is considered that established plantings adequately maintain privacy between buildings.

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

Comment:

The proposed development provide an adequate area within the rear yard for outdoor recreation for the dwelling occupants.

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

Comment:

The subject site contains adequate space, particularly towards the rear of the dwelling, for service functions, clothes drying and the like to service the domestic needs of the occupants. The proposal demonstrates suitable pathway connections and access to ensure practical access for maintenance and use of these areas.

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

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections to the proposed

stormwater system.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

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

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

Comment:

The proposed north facing window (W6) results in the overlooking of the private open space of the adjoining property at No. 70 Cassia Street, Dee Why. It is considered that the proposal does not provide a high level of visual privacy for the neighbours in this instance.

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

Comment:

It is considered that there are design solutions such as additional privacy measures that could have been employed to address the concerns raised with the proposed north facing window (W6) to achieve consistency with this objective.

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

Comment:

The proposed development continues to provide personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The proposed development would result in three (3) storey dwelling which is inconsistent with

the qualities and built form of the surrounding neighbourhood along this particular area of Wheeler Parade. Furthermore, it is considered that there are design alternatives to address such issues concerning building height, visual privacy, parking and wall height.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

While existing vegetation minimises the visual impact of the proposed development when viewed from Wheeler Parade, it should be noted that the proposal in its current form is inconsistent with the maximum height requirement.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2018/1891 for the Alterations and additions to a dwelling house on land at Lot 82 DP 1033258,46 Wheeler Parade, DEE WHY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part A.5 Objectives of the Warringah Development Control Plan 2011.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part A.7 Exhibition, Advertisement and Notification of Applications of the Warringah Development Control Plan 2011.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part B1 Wall Heights of the Warringah Development Control Plan 2011.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part C3 Parking Facilities of the Warringah Development Control Plan 2011.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part D8 Privacy of the Warringah Development Control Plan 2011.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part D9 Building Bulk of the Warringah Development Control Plan 2011.

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

Signed



Kent Bull, Planner

The application is determined on 05/04/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments