

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1204
Responsible Officer:	Nick England
Land to be developed (Address):	Lot 14 DP 16969, 27 Rayner Avenue NARRAWEENA NSW 2099
Proposed Development:	Demolition works and construction of 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:	Troy Jeffrey Dylan Maguire Melina Maguire
Applicant:	Troy Jeffrey Dylan Maguire
Application lodged:	12/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	20/07/2018 to 07/08/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Refusal
Estimated Cost of Works:	\$ 750,000.00

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 Development Control Plan - C4 Stormwater

SITE DESCRIPTION

Property Description:	Lot 14 DP 16969 , 27 Rayner Avenue NARRAWEENA NSW 2099
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Rayner Avenue.</p> <p>The site is generally regular in shape with a frontage of 14.645m along Rayner Avenue and a depth varying between 56.4m and 62.34m. The site has a surveyed area of 791.6m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house on the western portion of the site. On the rear eastern boundary, a detached secondary dwelling is currently under construction.</p> <p>The site has an easterly aspect with a significant slope falling down from the frontage towards the rear boundary. The site is divided in its topography by a significant drop of about of up to 3 metres, which occurs in the centre of the site.</p> <p>The site is interspersed with mature vegetation.</p> <p>Adjoining and surrounding development is characterised by dwelling houses.</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:

Complying Development Certificate 180028: Consent issued for the "Construction of a secondary dwelling (granny flat) in rear of property" on 19 February 2018. The secondary dwelling is currently under construction.

PROPOSED DEVELOPMENT IN DETAIL

The application proposes the demolition of the existing dwelling and the erection of a new two-storey dwelling.

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 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters could be 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, permits Council to request additional information. Council sent the applicant correspondence on 5 November 2018, advising that the application was not supported as the Council's policies for stormwater management had not been met. The applicant was invited to provide amended plans and given 14 days to response. As of the time of writing, no response had been received.</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 matter could be addressed via a condition of consent.</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 could be 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>
<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>	<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 2011 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>

Section 4.15 Matters for Consideration'	Comments
	<p>(iii) Economic Impact</p> <p>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 of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	As the proposal does not comply with Council's policies for stormwater management, the application is not in the public interest and refusal is recommended.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 of the application Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The survey plan indicates presence of rock outcrops in the rear of the site, located within the footprint of the proposed works.</p> <p>In view of the prominent location and north easterly aspect of the rock, planning site visit should include preliminary assessment of sites of significance and referral to AHO if potential significance noted.</p> <p>No objections subject to conditions as recommended.</p>
NECC (Development Engineering)	<p>Development Engineers have reviewed the proposal and cannot support the proposal due to the following reasons.</p> <p>1. The stormwater drainage system is to be designed in accordance with Council's "Stormwater Drainage from Low Level Properties Technical Specification". Since absorption system seems not to work in sandstone as identified by the geotechnical report, Stormwater from</p>

Internal Referral Body	Comments
	<p>the site is to be drained via a downstream inter-allotment drainage easement.</p> <p>2. The geotechnical report is not to be satisfactory. Details of the field test results were not provided to Council including the locations of the boreholes.</p> <p>3. The geotechnical report does not demonstrate that the on-site absorption system as proposed has been designed in accordance with Attachment 2 - On-site Absorption Design Guideline in Council's "Stormwater Drainage from Low Level Properties Technical Specification".</p> <p>4. Additionally the proposed absorption system only manages the stormwater disposal from the granny flat. Designed Stormwater disposal system for the rest of the site should also be provided to Council for assessment.</p> <p>5. The proposed impervious area exceeds 40 percent of the total site area, an OSD is required in accordance with Council's "On-site Stormwater Detention Technical Specification". The OSD tank is to be discharged to an approved inter -allotment drainage system.</p> <p><u>Planner's Comment:</u> The comments above were provided on the 21st December 2018, based on the additional information provided to Council on 11 December 2018. These comments superseded the previous comments provided by the Development Engineers on 2 October 2018.</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.924757S dated 6 June 2018).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	47
Thermal Comfort	Pass	Pass
Energy	40	50

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?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires consent	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 6 Additional Local Provisions	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6m	N/A	Yes
B3 Side Boundary Envelope	4m (north)	No breach	N/A	Yes
	4m (south)	No breach	N/A	Yes
B5 Side Boundary Setbacks	0.9m (north)	1 - 3.1m	N/A	Yes
	0.9m (south)	1 - 2.8m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6m	22.9m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	327m ² or 41.25%	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	No	No
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
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C4 Stormwater

Council's Development Engineer has advised that the proposal, and the additional information provided to Council on 12 December 2018, does not demonstrate compliance with the objectives and requirements of Part C4 Stormwater of WDCP 2011. Hence, it is recommended that the application be refused.

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
- Consistent 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 DA2018/1204 for the Demolition works and construction of a dwelling house on land at Lot 14 DP 16969,27 Rayner Avenue, NARRAWEENA, for the reasons outlined as follows:

1. 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 C4 Stormwater of the Warringah Development Control Plan 2011.

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

Signed



Nick England, Planner

The application is determined on 07/01/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments