

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/0165
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Responsible Officer:	Adriana Bramley
Land to be developed (Address):	Lot 28 DP 203735, 16 Coster Street FRENCHS FOREST NSW 2086
Proposed Development:	Alterations and additions to a dwelling house and use of existing shed as a studio
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
Applicant:	Helen Maria Cooney

Application Lodged:	26/02/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	07/03/2025 to 21/03/2025
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 205,656.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent to carry out alterations and additions to a Dwelling House including:

- building a covered roof over an existing deck
- extension of a living room
- conversion a detached shed to a detached Studio (including the addition of a new bathroom).

Additional / amended information was provided in relation to stormwater discharge, which did not require re-notification in accordance with the Northern Beaches Community Participation Plan. This additional / amended information contained an easement refusal letter and alternative drainage plan.

The response did not resolve issues raised by Council's Development Engineering Team. These are outlined within the sections of this report on Referrals and WDCP Clause C4 Stormwater.

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

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 28 DP 203735 , 16 Coster Street FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern end of Closter Street (end of cul-de-sac).</p> <p>The site is regular in shape with a small frontage of 11m along Closter Street and continues a further 24.4metres along the side boundary of the adjacent property with a depth of 16.5m to perpendicular to the road frontage. The site has a surveyed area of 566.9m².</p> <p>The site is located within the R2 Low Density zone and accommodates a single storey house, car port and shed.</p> <p>The site generally flat at an elevation of 160.63 AHD on the front boundary falling gently to 158.58AHD on the north east rear corner.</p> <p>The site contains lawns and matures trees on the</p>

boundaries. A significant mature pine tree and gum tree are evident near crossover and are not impacted by the proposal. There is no known mapped evidence of significant fauna species or their habitat.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a public recreation reserve to the west and surrounded by low density detached dwellings.

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:

- PLM2021/0215 - Advice provided on secondary Dwelling proposal
- DA2022/0673 - Development consent granted for Secondary Dwelling (2-storey) in north-west corner of lot between current house and the reserve with a floor area of 59.9m².
- BC2024/0189 - Building Information Certificate (Unauthorised) for the detached Shed and Part of the deck is under consideration pending outcome of the development consent to consider the conversion of the shed to a studio.

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	There are no current draft environmental planning instruments.
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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Stormwater discharge easements.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter could be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social	<p>(i) Environmental Impact</p> <p>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>

Section 4.15 Matters for Consideration	Comments
and economic impacts in the locality	<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 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	This assessment has found the proposal to be contrary to relevant requirements of the WLEP 2011, WDCP and Northern Beaches Council Water Management for Development Policy. As such, the proposal will result in an undesirable management of urban stormwater of the area, contrary to the expectations of the community. Subsequently, the development, as proposed, is not considered to be in the public interest. This forms a reason for refusal.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 07/03/2025 to 21/03/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The plans and SEE indicate that no significant landscape features are impacted by the proposed works. No trees are to be removed. No objections are raised regarding landscape issues.
NECC (Development Engineering)	<p>DATED 05/03/25</p> <p>The stormwater management plan indicates that the dwelling is connected to an existing piped drainage system, which runs across the adjoining property in an easterly direction. However, no evidence of drainage easement rights has been provided with the application. Consequently, the stormwater management proposal cannot be approved.</p>

Internal Referral Body	Comments
	<p>The applicant is required to submit plans that comply with the Northern Beaches Council's "Water Management for Development Policy," specifically clause 5.0, "Disposal of Stormwater."</p> <p>DATED 08/04/2025</p> <p>Revised stormwater management plan submitted by Taylor Consultants was reviewed. The stormwater management plans propose a combination of a charged roof drainage system directed to the street and an absorption system for surface runoff. However, the proposed charged drainage system directing flows to Coster Street falls under a different stormwater catchment area. The stormwater management proposal cannot be supported for the following reasons:</p> <ul style="list-style-type: none"> • It does not comply with the Northern Beaches Council Water Management for Development Policy, specifically Clause 5.1, which states: "Stormwater drainage for all properties must be by gravity" and "Diverting flows from one catchment to another catchment will not be permitted. Properties must drain in the direction of their natural catchment." • It does not comply with Clause 5.5 of the Northern Beaches Council Water Management for Development Policy, which addresses "Stormwater Drainage from Low-Level Properties." • No geotechnical assessment for the absorption method has been provided, as required by the Northern Beaches Council Water Management for Development Policy. • It does not comply with Warringal DCP Part C4 on Stormwater.
Parks, reserves, beaches, foreshore	<p>The development site adjoins RE1 Public Recreation land known as Coster Reserve. The proposed alterations and additions are not in proximity to the public reserve with areas within the property adjoining Coster Reserve undisturbed. Public access to the public reserve is not impacted by the proposed development and the development is not detrimental to the prevailing landscape character when viewed from the adjoining public reserve, and as such Parks, Reserves and Foreshores Referral raise no concerns with the development proposal.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of</p>

External Referral Body	Comments
	Practice. These recommendations could be included as a condition of consent.
Aboriginal Heritage Office	<p>Conclusion / General Comments</p> <ul style="list-style-type: none"> No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs 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 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1783209).

A condition could be included in a development consent if issued requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections. Conditions could be included if development consent is issued.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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:	6.5m	4.6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
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	3.1m (studio) 2.5 (living room)	N/A	Yes Yes
B3 Side Boundary Envelope	4m	3.1m (studio)	N/A	Yes
	4m	2.5m (living room)	N/A	Yes
B5 Side Boundary Setbacks	0.9m	2.7m (studio)	N/A	Yes
	0.9m	2.1m (living room)	N/A	Yes
B7 Front Boundary Setbacks	6.5m	N/A	N/A	N/A
B9 Rear Boundary Setbacks	6m	N/A	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	51.9% (as shown)*	N/A	Yes

* This does not include the area that would not be available for LOS if the approved Secondary Dwelling is built as approved by DA2022/0673. LOS would drop to ~35% of site.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
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
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
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C4 Stormwater

Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is contrary to the provisions of Clause C4 Stormwater of the Warringah Development Control Plan 2011.

Particulars

The proposal seeks to divert stormwater from one catchment to another and in addition has not justified the proposed absorption method.

In this regard, the Applicant was given the opportunity to address the issue via the RFI letter, which resulted in a revised system, but consequent redirection of stormwater to a different catchment, which is not supported by the Development Engineering team.

Additionally, there is insufficient information to assess the suitability of the part onsite disposal system.

Having regard to these critical issues surrounding stormwater management, and the deficiencies in the application, this will form a reason for refusal of the application.

The refusal will reflect the fact that the proposal fails to achieve compliance with the requirements for drainage systems under the Northern Beaches Water Management for Development Policy.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The development as presented (for a minor extension of detached dwelling and conversion of Shed to Studio) is compliant with the requirements of this control providing 294m² of the site as Landscaped

Comment:

The streetscape as presented to head of Coster Street will remain intact with the retention of 2 large trees, driveway crossover and some garden landscaping.

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

Comment:

Existing large Native trees on site are retained. The additional minor footprint is not impacting on habitat for wildlife.

- *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 height, bulk and scale of the development is largely within the current built form. Areas containing low lying shrubs, medium high shrubs and canopy trees are to be retained and adequate space exists to add to these if needed.

- *To enhance privacy between buildings.*

Comment:

Adequate screen planting is established on the site including tall hedge planting on the northern boundary between houses.

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

Comment:

The outdoor recreational needs of the occupants are met by the landscaped areas and the provision of low profile decks adjacent to lawn and garden areas.

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

Comment:

Space for service functions is existing and is adequate.

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

Comment:

The development is a lightweight construction on stumps and allows for adequate infiltration of stormwater under buildings and space for stormwater infrastructure.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$2,057 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$205,656.

Building Information Certificate (BC2022/0189)

A Building Information Certificate (BIC BC2024/0189) was applied for the unauthorized construction of part of the deck and the shed.

An internal inspection of the shed revealed its use as a Habitable Room (bedroom) as defined under the provisions of Part A6 of the Building Code of Australia 2022 attracting a Class 1 classification, as an appurtenant structure to the main dwelling – Class 1a. The applicant was requested to either remove the structure or apply for development consent.

A 'deferred commencement consent' would be considered appropriate to manage the consent process for the use of the built structure as a 'Studio' to enable the BIC to be determined.

However, unless the stormwater management system for the proposal can be resolved to satisfy Council's Policy, no favourable determination can be made on the DA.

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 2021;

- 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 DA2025/0165 for the Alterations and additions to a dwelling house and use of existing shed as a studio on land at Lot 28 DP 203735, 16 Coster Street, FRENCHS FOREST, 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)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the Warringah Development Control Plan as follows:
 - the proposal seeks to divert stormwater from one catchment to another;
 - the proposal has not justified use of the 'absorption method';
 - the proposal contains insufficient information to assess the suitability of the part onsite disposal system; and
 - the proposal fails to comply with the requirements for drainage systems under the Northern Beaches Water Management for Development Policy.
3. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

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

Signed



Adriana Bramley, Principal Planner

The application is determined on 11/04/2025, under the delegated authority of:



Steven Findlay, Manager Development Assessments