



Warringah Council

DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Julian Lyons
Address / Property Description:	Lot 1, DP 818839, No. 324 Warringah Road, Frenchs Forest
Development Application No:	DA2009/0031
Proposal:	Alterations and additions to the existing dwelling house including an extension to the rear covered deck, dining room and an ensuite
Application Lodged:	13 January 2009
Plans Reference:	Drawing No's NT02, NT03 and NT04, dated JAN. 2009 and prepared by N. Towill
Amended Plans:	Nil
Applicant:	Nathan Towill
Owner:	Nathan Towill Nicole Towill
Locality:	B1 Frenchs Forest East
Category:	Category 1 (Housing)
Variations to Controls (Cl.20/Cl.18(3)):	Rear Building Setback
Referred to ADP:	No
Referred to WDAP:	No
Land and Environment Court Action:	No
SUMMARY	
Submissions:	Nil
Submission Issues:	Nil
Assessment Issues:	Rear Building Setback
Recommendation:	Approval
Attachments:	Nil

SITE PHOTOS



The existing rear deck to be extended. Picture taken looking east.



Picture showing the location of the proposed addition and the rear deck to be extended. Picture taken looking west.



Picture taken at the approximate level of the proposed deck extension, looking north at No's 322 A and 333 B Warringah Road..



The location of the proposed addition for the ensuite. Picture taken looking south.

SITE DESCRIPTION

The site is known Lot 1, DP 818839, No. 324 Warringah Road, Frenchs Forest, and is adjacent to the north side of Warringah Road.

The site is irregular in shape with an area of 581.1sqm and has the following boundary dimensions:

Boundary	Length
Front (south)	18.115m
Side (west)	27.305m
Rear (north)	24.45m
Side (east)	28.035m

The site is predominately level and currently contains a single storey weatherboard dwelling, a double carport and two small outbuildings located along the western side boundary and the rear north-western corner. A Right of Way and an easement services burden the eastern side of the lot. There are two significant trees along the western side boundary and two significant trees adjacent to the Right of Way to the east.



The site is surrounded by single storey brick residence to the east, No. 320 Warringah Road, a one and two storey rendered dwelling to the west, No. 326 Warringah Road, and two attached single storey brick dwellings to the rear (north) being No's 322A and 322B Warringah Road.

SITE HISTORY

Development Application No. 2007/0385 for alterations and additions to the existing dwelling, essentially for an extension to the front of the dwelling, was approved by Council 14 July 2007.

A search of Council's records has revealed no other history of significance to this development application.

PROPOSED DEVELOPMENT

The proposed development seeks approval for the following:

- Addition towards the west to make way for an ensuite to the main bedroom;
- Addition to the northeast corner of the dwelling to make way for a dinning room, located at the rear;
- Extension of the existing rear deck towards the east;
- Replace the existing paving, located to the east of the dwelling, with landscaping,
- Reconfiguration of the widows on the eastern elevation; and
- Internal reconfiguration.

AMENDMENTS TO THE SUBJECT APPLICATION

Nil.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979);
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy (Infrastructure) 2007;
- d) Warringah Local Environmental Plan 2000;and
- e) Warringah Development Control Plan

REFERRALS

Nil.

NOTIFICATION AND SUBMISSIONS RECEIVED

The application was notified by letter dated 22 January 2009 to 12 adjoining and surrounding properties. No submissions were received as a result of this notification.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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



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Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on SEPP (Infrastructure) 2007 and WLEP 2000 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)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	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. 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 addressed via a condition of consent.
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	(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 and, the proposal is satisfactory in this respect. (ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the surrounding land and that the existing land use will not change.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as it is a predominately flat site with no significant physical constraints, and subject to conditions, it will maintain the residential amenity of the neighbouring properties. Furthermore, the proposal will provide an opportunity to establish landscaping within the rear setback, which will enhance the amenity between the subject site and the surrounding properties.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were made against this development.
Section 79C (1) (e) – the public interest	The proposed development, subject to conditions, will enhance the amenity between the adjoining properties through the provision of landscaping. A clause 20 variation has been supported in regards to the rear setback and the development is compliant with all of the relevant General Principles of Development Control under WLEP 2000. Therefore, the proposal is not contrary to the public interest.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)



State Environmental Planning Policies (SEPPs)

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

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC) – B1 Frenchs Forest East

The subject site is located in B1 Frenchs Forest East locality under Warringah Local Environment Plan 2000.

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

The Frenchs Forest East locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape including rock outcrops, remnant bushland and natural watercourses.

The use of materials that blend with the colours and textures of the natural landscape will be encouraged. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control listed in clause 39 (Local retail centres).

The proposed development is defined as 'Housing' under the WLEP 2000 dictionary. 'Housing' is identified as Category One development in this locality.



Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement. An assessment of consistency of the proposed development against the relevant components of the locality's DFC is provided hereunder:

The Frenchs Forest East locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Comments: The proposed development is for alterations and additions to the existing dwelling and will not alter the dwelling's current detached style of housing. Further, the existing landscaped is to be retained. Therefore, the proposal satisfies this component of the DFC statement.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality.

Comments: The proposed development will not alter the visual pattern or scale of the dwelling within the locality and will continue to maintain the existing dwelling's detached style of housing. Therefore, the proposal satisfies this section of the DFC statement.

As detailed above the proposed development is considered to be consistent with the Locality's DFC statement.

Built Form Controls (Development Standards)

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

Built Form Compliance Table (B1 Frenchs Forest East)			
Built Form Standard	Required	Proposed	Compliance
Housing Density	1/600sqm	1 dwelling on the site	N/A
Building Height	8.5m (roof) 7.2m (ceiling)	4.5m 3.3m	YES
Front Building Setback	6.5m	15.5m (west addition)	YES
Rear Building Setback	6m	1.07m (existing deck)	NO
		1.07m (deck extension)	NO
		3.8m(existing dwelling)	NO
		3.8m (northeast addition)	NO
		7.3m (west addition)	YES
Side Boundary Envelope	4m / 45 degrees	The proposal is within the side boundary envelope	YES
Side Setbacks	900mm	West: 1.37m (west addition)	YES
		East: 7.8 – 8.8m (northeast addition)	YES
Landscaped Open Space	40%	41.9%	YES

As detailed in the above table, the proposed development does not comply with the Rear Building Setback control. Accordingly, an assessment is provided pursuant to 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 consistent with the General Principles of Development Control and so qualifies 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 Locality’s Desired Future Character Statement and so qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal is consistent with all applicable State Environmental Planning Policies (Refer to earlier discussion under ‘State Environmental Planning Policies’) and so qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Description of variations sought and reasons provided:

Rear Building Setback Control – B1 Frenchs Forest East

Required: The subject site falls within the B1 Frenchs Forest East locality. As such, the site is subject to the Rear Building Setback Control of 6.0m.

Existing: The existing Rear Building Setback is 1.07m to the rear deck and 3.8m to the dwelling, and does not comply with the current Built Form Control under WLEP 2000.

Proposed: The proposal is for alterations and additions to the existing dwelling with the following non-compliances in regards to the rear building setback:

- 1.07m to proposed extension to the rear deck towards the east; and
- 3.8m to the northeast addition to the dwelling.

Response: The proposal intensifies the development within the rear building setback. However, it is noted that the proposal does not seek to breach the existing the existing non-compliances to the Rear Building Setback control.



Accordingly, in assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Rear Building Setback control and the proposal, based on its merit. Accordingly, compliance with the objectives are addressed below:

Objective 1: Create a sense of openness in rear yards.

Comments: The proposed extension to the covered rear deck is to match the existing deck and will be located over an existing hard paved area. The existing deck and the proposed extension to it are considered to be open-lightweight structures and as such will maintain an adequate sense of openness.

The infill extension to the currently void northeast corner of the dwelling is approximately 5sqm in area. As this proposed extension is only 2.5m in length and will maintain the existing setback of the dwelling it is considered that it will not unduly impact on the sense of openness within the rear building setback.

It is noted that it is proposed to remove approximately 14.6sqm of paving from the rear setback and to replace it with soft landscaping.

Furthermore, it is noted that the site is constrained by a right of way to the east, which provides vehicular access to the adjoining rear properties No's 322A and 322B Warringah Road. If the rear setback area was to include this Right of Way, the built upon area of the rear setback would total 48.6%, which is below the maximum 50% stipulated under WLEP2000.

Given the above, it is considered that the extent of the proposed development within the rear setback area is relatively minor and will not have detrimental impact on the sense of openness within the rear setback.

Objective 2: Preserve the amenity of adjacent land.

Comments: It is considered that the non-complying elements of the proposal will not reduce sunlight to surrounding properties. The works, subject to a condition requiring screen planting between the rear deck and the rear (north) boundary, will not provide unreasonable overlooking opportunities to the adjoining properties and as such, maintains privacy in accordance with Clause 65 WLEP2000.

Objective 3: Maintain visual continuity and pattern of buildings, rear gardens and landscape elements.

Comments: The proposed rear additions to dwelling and deck do not breach the existing rear setbacks and are considered to maintain an average of the rear building line between the adjoining properties No's 326 and 322 Warringah Road. Furthermore, the removal of the hard surface area to the northeast of the dwelling will provide greater opportunity to establish a rear garden.

Objective 4: Provide opportunities to maintain privacy between dwellings.

Comments: The non-complying elements of the proposed development provide adequate separation between dwellings. Notwithstanding this, a condition will be placed on the consent to provide for screen planting between the rear deck and the rear boundary to enhance the



visual privacy between that area and the adjoining properties to the rear, No's 322A and 322B Warringah Road.

Clause 20 Variation – Supported

Having regard to the above, it is considered that the proposal, notwithstanding the numerical variation to the Rear Building Setback control for the locality, is still consistent with the desired future character for the B1 Frenchs Forest East locality and the General Principles of Development Control. The proposed extensions to the deck and the dwelling are considered to be consistent with the surrounding height, bulk, and scale of development as well as the established rear building line. Accordingly, the Clause 20 Variation is supported.

General Principles Of Development Control

The following 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	NO		N/A
CL39 Local retail centres	NO		N/A
CL40 Housing for Older People and People with Disabilities	NO		N/A
CL41 Brothels	NO		N/A
CL42 Construction Sites	YES	Construction is proposed, accordingly conditions have been included in the consent to reduce the impact of the construction process on the adjoining properties and neighbour hood.	YES (condition required)
CL43 Noise	NO		N/A
CL44 Pollutants	NO		N/A
CL45 Hazardous Uses	NO		N/A
CL46 Radiation Emission Levels	NO		N/A
CL47 Flood Affected Land	NO		N/A
CL48 Potentially Contaminated Land	NO		N/A
CL49 Remediation of Contaminated Land	NO		N/A
CL49a Acid Sulfate Soils	NO		N/A
CL50 Safety & Security	NO		N/A



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General Principles	Applies	Comments	Complies
CL51 Front Fences and Walls	NO		N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO		N/A
CL53 Signs	NO		N/A
CL54 Provision and Location of Utility Services	NO		N/A
CL55 Site Consolidation in 'Medium Density Areas'	NO		N/A
CL56 Retaining Unique Environmental Features on Site	NO		N/A
CL57 Development on Sloping Land	NO		N/A
CL58 Protection of Existing Flora	NO		N/A
CL59 Koala Habitat Protection	NO		N/A
CL60 Watercourses & Aquatic Habitats	NO		N/A
CL61 Views	NO		N/A
CL62 Access to sunlight	NO		N/A
CL63 Landscaped Open Space	YES	The landscaped open space provision for the site is calculated at 41.9% of the site area. The minimum area required for landscaped open space is 40%. It is noted that the plans indicate removal of the hard paving area located to the northeast of the dwelling, which will provide for a greater opportunity to establish landscaping. Further, it is recommended that a condition be imposed to establish screen planting, which will enhance privacy between the rear deck and the adjoining properties to rear, No's 322A and 322B Warringah Road. This issue was raised with the owner on-site 5 February 2009 who agreed to the imposition of such a condition on the consent. Therefore, subject to a condition, the proposal is in accordance with this clause.	YES (condition required)
CL63A Rear building setback	YES	The proposed deck extension and infill of the northeast corner of the dwelling is to be located over existing hard surface area. The addition to the dwelling is 5sqm and is	YES



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General Principles	Applies	Comments	Complies
		considered to be minor in nature. The extension to the deck is of an open light-weight nature and therefore, will maintain a sense of openness. Furthermore, the plans indicate removal of approximately 14.6sqm of paving within the rear setback, to be re-established as soft landscaping. As discussed under Clause 63 – Landscaped Open Space, a condition will be imposed on the consent requiring screen planting to enhance privacy between the rear deck and the adjoining properties to the rear of the site. Therefore, the proposal is within accordance with this clause.	
CL64 Private open space	YES	Private open space will be maintained on-site in accordance with the principles for private open space under Clause 64.	YES
CL65 Privacy	YES	The proposed addition for an ensuite, located on the western side of the dwelling, has been designed to mitigate privacy issues by staggering the window arrangement with the adjoining property to the west, No. 326 Warringah Road. As discussed under Clause 63 – Landscaped Open Space a condition will be imposed on the consent to enhance privacy between the rear deck and the adjoining properties to the rear, No's 322A and 322B Warringah Road, by way of screen planting. Therefore, the proposal, subject to conditions will satisfy the objectives and intent of this clause.	YES (condition required)
CL66 Building bulk	YES	The additions to the dwelling are single storey and minor in nature and provide sufficient articulation so as not to appear bulky or excessive. The extension to the deck will match the light-weight open style structure of the existing deck. The existing fence between the subject property and the adjoining properties to the rear No's 322A and 322B Warringah Road is approximately 1.8m in height and will screen the majority of the development from these properties. Furthermore, a condition requiring screen planting between the rear deck and the rear boundary will serve to further soften the visual appearance of the dwelling when viewed from the rear. Therefore, the proposal is not excessive in bulk and scale and is within accordance with this clause.	YES
CL67 Roofs	YES	The roof over the proposed addition to the western side of the dwelling is to be a metal gable roof which will match the existing roof form and colour of the existing dwelling. The roof forms over the deck extension and the infill addition to the north eastern corner of the dwelling will be a continuation of the existing roof form and match the existing colour and material Therefore, the proposal satisfies the objective of this	YES

General Principles	Applies	Comments	Complies
		clause.	
CL68 Conservation of Energy and Water	NO		N/A
CL69 Accessibility – Public and Semi-Public Buildings	NO		N/A
CL70 Site facilities	NO		N/A
CL71 Parking facilities (visual impact)	NO		N/A
CL72 Traffic access & safety	NO		N/A
CL73 On-site Loading and Unloading	NO		N/A
CL74 Provision of Carparking	NO		N/A
CL75 Design of Carparking Areas	NO		N/A
CL76 Management of Stormwater	YES	A condition will be included, which will ensure that stormwater is managed in accordance with this clause.	YES (condition required)
CL77 Landfill	NO		N/A
CL78 Erosion & Sedimentation	YES	Erosion and sediment during construction shall be managed in accordance with this clause by way of standard conditions.	YES (condition required)
CL79 Heritage Control	NO		N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO		N/A
CL81 Notice to Heritage Council	NO		N/A
CL82 Development in the Vicinity of Heritage Items	NO		N/A
CL83 Development of Known or Potential Archaeological Sites	NO		N/A

SCHEDULES

Schedule 8 - Site analysis

Adequate site analysis documentation was provided for this application.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS



Nil.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

As the estimated cost of works is estimated to be \$28,650 a Section 94A contribution is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, the provisions relevant environmental planning instruments, including Warringah Local Environment Plan 2000, SEPP (Infrastructure) 2007, and the relevant codes and policies of Council.

The proposed development has been found to be consistent with the desired future character statement for the B1 Frenchs Forest East locality and, subject to conditions, the General Principles of Development Control. The Clause 20 variation in relation to the rear building setback is supported for the reasons detailed in the above sections of this report, as it will not have an adverse impact on the amenity of neighbouring properties or the landscape setting of the subject site.

The proposal, subject to special conditions will maintain an adequate level of privacy for the adjoining properties and will not impact negatively upon the locality or the amenity of the surrounding properties or the streetscape.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

Therefore, it is recommended that Council as the consent authority grant approval to the application.

RECOMMENDATION (APPROVAL)

- A. That Development Application No. DA2009/0031 for alterations and additions an existing dwelling house including an extension to the rear covered deck, dinning room and an ensuite at Lot 1, DP 818839, No. 324 Warringah Road, Frenchs Forest be approved subject to the attached conditions.
- B. That pursuant to Section 95(2) of the Environmental Planning Assessment Act 1979, the Council vary the provisions of Section 95(1) so this consent will lapse three (3) years from the date in which it operates, and the applicant be advised accordingly.

Signed:

Date:



Warringah Council

Julian Lyons
Student Development Assessment Officer

Signed:

Date:

Steven Findlay
Team Leader Development Assessment