

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2016/0047
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 12 DP 241787, 4 Bennabra Place FRENCHS FOREST NSW 2086
Proposed Development:	Review of Determination of Application No.DA2016/0730 for regularisation of a change of use of a garage to a bedroom in an existing dwelling house and relocation of carparking
Zoning:	LEP - 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:	Timothy Ashelford Angela Ashelford
Applicant:	Chapman Planning Pty Ltd

Application lodged:	09/12/2016
Application Type:	Local
State Reporting Category:	Refer to Development Application
Notified:	23/12/2016 to 23/01/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 28,000.00
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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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 82A - Environmental Planning and Assessment Act 1979 - Section 82A

Warringah Development Control Plan - B7 Front Boundary Setbacks

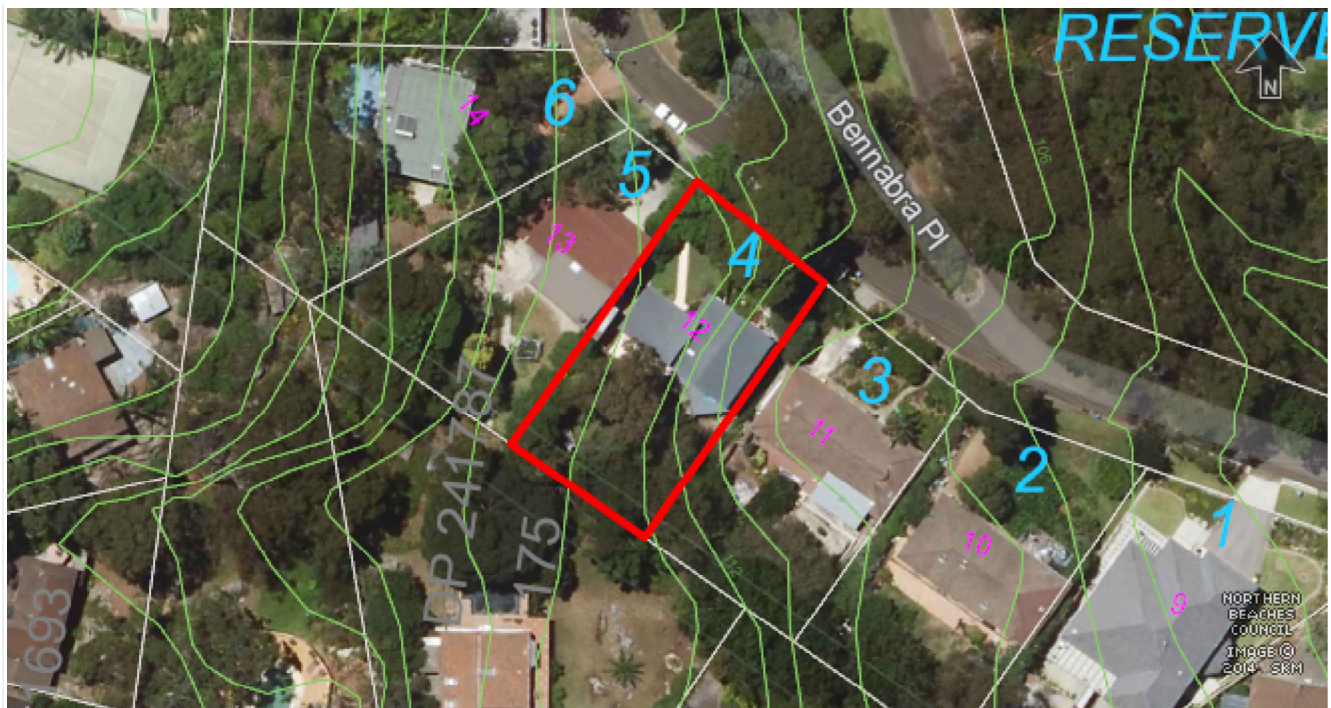
Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C9 Waste Management

SITE DESCRIPTION

Property Description:	Lot 12 DP 241787 , 4 Bennabra Place FRENCHS FOREST NSW 2086
Detailed Site Description:	The subject site is known as 4 Bennabra Place, Frenchs Forest and is legally identified as Lot 12 Sec 175 DP 241787. The site is upon land zoned for R2 Low Density Residential development. The site is regular in shape (rectangular) and has a surveyed area of 696.8m² comprising of a 18.96m frontage to Bennabra Place and an average depth of 36.84m. Presently the site accommodates a 1 and 2 storey detached brick dwelling, a driveway and front path and multiple retaining walls throughout. Surrounding allotments to the east, west and south consist of other detached dwellings of varying architecture, style and construction. North of the site is a large area of bushland zoned for RE1 Public Recreation. This strip of bushland runs for several hundred metres and includes the natural waterway, Carroll Creek. Bennrabra Place is a one-way loop road which inclines from west to east before passing 10 dwellings, looping around, and reconnecting to decline back onto Prahra Avenue. As such, the subject allotment inclines from west to east by approximately 3.5m. Both the subject and surrounding sites experience a variety of rock outcrops. The street and private land surrounding Bennabra Place has significant mature vegetation throughout which, whilst greatly enhancing to the area, largely restricts sightlines when driving through the street.

Map:



SITE HISTORY

The works subject of this application have previously been assessed under previous development applications and building certificates including the following:

Development Application No. 2016/0467

Application for a change of use of a garage to a habitable space. The Application was lodged on 17 May 2016. On 10 June 2016 Council issued a letter to the Applicant advising that the subject application could not be supported as retrospective approval could not be granted through this mechanism, and that the provision of car parking was insufficient (1 space).

Consequent of this letter and the advise of Council, the Applicant withdrew the DA on 22 June 2016.

Development Application No. 2016/0730

Application for the regularisation of a change of use of a garage to a bedroom and the relocation of car parking.

The application was refused on 28 September 2017 pursuant to:

- 1. Pursuant to Section 79C(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 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the specific Aims and Objectives of the R2 Zone as stated within the Warringah Local Environmental Plan 2011.*
- 3. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause A5. Objectives of The Plan of the Warringah Development Control Plan 2011.*
- 4. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause B7 Front Boundary Setbacks of The Plan of the Warringah Development Control Plan 2011.*
- 5. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause C3 Carparking of The Plan of the Warringah Development Control Plan*

2011.

6. Pursuant to Section 79C (1) (c) – the site is not suitable for the development.

7. Pursuant to Section 79C (1) (e) – the development is not public interest.

Section 82A Review Application No. 2016/0047 (subject application)

This current application is a review of the determination of DA2016/0730.

PROPOSED DEVELOPMENT IN DETAIL

This Section 82A Review Application is the child application of development application No. 2016/0047 and is concurrent to a Building Certificate presently with Council for regularisation of the conversion of an attached single car garage into a habitable space.

This review presents new information and design amendment to the previous proposal to attain approval for the use of the habitable space (concurrent of the BC) and for the demolition of the existing driveway and construction and use of a new hardstand car parking area.

Consequent of the already constructed habitable space, the site has one hardstand car parking space. Previous to the conversion of the garage, the site had one parking space in the garage, and a second tandem hardstand space in the front (current).

The review application proposes the use of the land in front of the previous garage as side-by-side hardstand car parking for two vehicles which satisfies the reasons for refusal of a previous application. Further to this, design amendments involving the surface covering of the driveway have improved the aesthetics of the overall development, as discussed in detail elsewhere in this proposal.

This assessment considers Council's previous assessment and determination and relies upon the information provided at the lodgement and throughout the assessment of this current review application.

By virtue of the approval of this Section 82A review, the use of the previous garage into a habitable space would be authorised, subject to the approval of the BC, and the site would have two car parking spaces instead of the current single space.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
In accordance with Section 82A of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 82A of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on <insert> and the notice of determination was issued on 28 September 2016. The review was lodged on 9 December 2016, which is within 6 months of the date of determination.

Section 82A(4)(c) provides that the Council may review a determination if in the event that the applicant has made

amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the S82 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 82A (4) (c) of the Act

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 Warringah 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
Development Engineers	No Development Engineering objection is raised to the proposed development subject to conditions.

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 19 - Bushland in Urban Areas

The provisions of the SEPP require that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent authority considering the aims and objectives of the SEPP.

In this regard, consideration is given as follows:

(1) The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:

- (a) its value to the community as part of the natural heritage,
- (b) its aesthetic value, and
- (c) its value as a recreational, educational and scientific resource.

(2) The specific aims of this policy are:

- (a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,
- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,
- (c) to protect rare and endangered flora and fauna species,
- (d) to protect habitats for native flora and fauna,
- (e) to protect wildlife corridors and vegetation links with other nearby bushland,
- (f) to protect bushland as a natural stabiliser of the soil surface,
- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,
- (h) to protect significant geological features,
- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,
- (j) to protect archaeological relics,
- (k) to protect the recreational potential of bushland,
- (l) to protect the educational potential of bushland,
- (m) to maintain bushland in locations which are readily accessible to the community, and
- (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation."

Comment:

This application does not propose the removal of any existing vegetation and increases the provision of green space (non-calculable landscaped open space) by virtue of replacing the existing concrete driveway with a permeable surface and as such, it is considered that the development is consistent with the aims of SEPP 19.

Based on the above, it is considered that the development would result in consistency with the aims of the plan.

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 (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 Environment 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	Complies
Height of Buildings:	N/A - change of use and hardstand car space	0.0m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	N/W - 0.9m	11.2m	-	Yes
	S/E - 0.9m	2.5m	-	Yes

NORTHERN BEACHES COUNCIL

B7 Front Boundary Setbacks	N/E - 6.5m	Driveway - Varies - 2.9m - 3.1m	Up to 52.4%	No
		Dwelling - 8.7m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	67.8% (473m ²)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
R2 - All other land in R2 Zone	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
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
C9 Waste Management	No	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
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The allotment is subject to a 6.5m front boundary setback control, inclusive of the provision of car parking. Pursuant to Cl. B7 of the DCP, the application proposes two hardstand car parking spaces which encroach within this front setback area by up to 52.4% (2.9m - 3.1m). The dwelling is setback a compliant 8.7m from the front boundary.

In consideration of the proposal to have to side-by-side hardstand car parking spaces in the front setback, it should be noted that the existing alternative to this (should this application be refused and the garage reinstated) would result in a tandem car parking arrangement, with one vehicle in the garage and one vehicle on a hardstand space, still encroaching the front setback.

As such, consideration in this assessment takes into regard both the numerical non-compliance, as well as a comparison between the proposed and the previous (prior to garage conversion) parking provision.

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 streetscape of Bennabra Place has an overwhelming character of bushland and greenery, and any reduction in the provision of concreted surfaces is considered to be a significant improvement to the streetscape. As such, Council advised the Applicant that the proposal could be supported, subject to the existing concrete driveway slab being removed, and the car parking area being of a more 'natural' surface. The Applicant has selected to have a permeable driveway/hardstand parking surface consisting of a permeable paver/grass configuration to satisfy Council's advice.

Subject to the installation of the abovementioned ground cover, Council considers that the proposal creates a greater sense of openness than existing, notwithstanding the numerical non-compliance with the car parking in the setback area. The surface will be sympathetic to the surrounding natural environment, and the removal of the large, dated concrete slab will have both aesthetic and ecological benefit. Further to this, when vehicles are not parked in these spaces, the area will present as a garden instead of a car parking area.

Given the above reasons, it is considered that the proposal satisfies this objective.

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

Comment:

Surrounding properties on Bennabra Place have varying provisions of car parking arrangements, however the most common configuration of parking is tandem - one car in a single car garage, and one parked on a hardstand spaces, often encroaching within the front setback area. Given this, the proposed setback is considered consistent with the visual continuity of surrounding sites.

This proposal entails two hardstand spaces which differs from the majority of surrounding allotments, however this parking area is bound by large rock outcrops, retaining walls and mature landscaping which is currently disturbed by a large concrete slab running centrally through the site.

It is considered that the introduction of the surface covering discussed above will be an enhancement to the visual continuity of the streetscape and will add additional green than what is currently existing.

Given the reasons above, it is considered that the proposal satisfies this objective.

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

Comment:

For the reasons discussed above, it is considered that this application will enhance the bushland character of the area by introducing additional greenery, and without the removal of additional vegetation.

As such, it is considered that the proposal satisfies this objective.

- *To achieve reasonable view sharing.*

Comment:

No views will be impacted upon consequent of this development.

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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

The subject site previously relied on the provision of tandem parking comprising of a single car garage and a single hardstand space encroaching within the front setback area.

This application proposes two hardstand car parking spaces side by side within the front setback area, thus negating the requirement to park in the garage.

Notwithstanding compliance, typically side by side parking spaces are more readily used and accessible than tandem parking, and it is assumed that this provision of parking will contribute to reducing the number of vehicles parked on the street. Given the narrowness of Bennabra Place and the relatively restricted sightlines (by virtue of contour and existing mature vegetation), reducing the number of vehicles parking on the street is a key consideration in the assessment of this application.

The surface area of the driveway has been discussed in detail elsewhere in this application.

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 development provides the following on-site car parking:

Use	Appendix 1	Required	Provided	Difference (+/-)
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NORTHERN BEACHES COUNCIL

	Calculation			
Dwelling house	2 spaces per dwelling	2	2	-
Total				

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

Council sought additional information from the Applicant regarding the surface area of the proposed driveway and it was considered that having the area concreted would have a negative visual impact upon the streetscape.

Subject to the surface area of the driveway being a material that is compatible with the surrounding natural environment, it is considered that the proposal is satisfactory.

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

Comment:

The application proposes two hardstand car parking spaces located approximately 3 - 4 metres from the front boundary of the site. Given the topography of the land, these parking spaces are bound by vegetation, large rock outcrops and timber retaining walls. Subject to the surface area of the driveway being of a material that is compatible with the surrounding natural environment, it is considered that the proposal will not dominant the street frontage or the adjacent public park.

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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C9 Waste Management

A detailed waste management plan has not been submitted with the application. To ensure proper disposal of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a construction certificate.

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.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent 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
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to REV2016/0047 for Review of Determination of Application No.DA2016/0730 for regularisation of a change of use of a garage to a bedroom in an existing dwelling house and relocation of carparking on land at Lot 12 DP 241787, 4 Bennabra Place, FRENCHS FOREST, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Rev d	2 December 2016	Archi Spectrum
DA02 Rev d	2 December 2016	Archi Spectrum
DA03 Rev d	2 December 2016	Archi Spectrum

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.warringah.nsw.gov.au/your-council/forms).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Parts C8 and C9 of the WDCP 2011 and Council's Waste Management Guidelines (that apply to land covered by the WLEP 2011).

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

6. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

7. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

9. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

10. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

(a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage

(b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage

(c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

11. **Certification Parking Facility Works**

An appropriately qualified and practicing Structural Engineer shall certify to the Council / Principal Certifying Authority that the parking facility was constructed in accordance with this consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Occupation Certificate.

Reason: Compliance with this consent. (DACENF13)

12. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

13. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed

Adam Mitchell, Planner

The application is determined under the delegated authority of:

Rodney Piggott, Development Assessment Manager

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ATTACHMENT A

Notification Plan	Title	Date
 2016/405792	Plan - Notification	07/12/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/417722	Notification Map	23/12/2016

ATTACHMENT C

Reference Number	Document	Date
 2016/405790	Plans - Survey	24/10/2016
 2016/405796	Plans - Internal	07/12/2016
 2016/405793	Report - Statement of Environmental Effects	07/12/2016
 2016/405792	Plan - Notification	07/12/2016
 REV2016/0047	4 Bennabra Place FRENCHS FOREST NSW 2086 - Reviews - Section 82A Review of Determination	09/12/2016
 2016/402161	DA Acknowledgement Letter - Chapman Planning Pty Ltd	09/12/2016
 2016/405794	Plans - External	13/12/2016
 2016/405787	S82A Reivew of Determination of Development Application	13/12/2016
 2016/405788	Applicant Details	13/12/2016
 2016/405821	Plans - Master Set	13/12/2016
 2016/411769	Notice of intention to issue an order - REV2016/0047 - 4 Bennabra Place Frenchs Forest	19/12/2016
 2016/417722	Notification Map	23/12/2016
 2016/417723	Notification Letter - Section 82A - 11	23/12/2016
 2017/010129	Development Engineering Referral Response	11/01/2017
 2017/056270	Request for info - driveway surface	28/02/2017
 2017/064177	Amended Driveway Plan	07/03/2017