



Warringah Council

RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA No. DA2009/0592

Assessment Officer: Keith Wright

Property Address: Lot 39 DP 5659, 30 Surf Road NORTH CURL CURL NSW 2099

Proposal Description: Alterations and additions including a new upper storey and a basement garage.

Plan Reference: SK - 01, SK - 02 and SK - 3

Report Section	Applicable	Complete & Attached
Section 1 – Code Assessment	☒ Yes ☐ No	☒ Yes ☐ No
Section 2 – Issues Assessment	☒ Yes ☐ No	☒ Yes ☐ No
Section 3 – Site Inspection Analysis	☒ Yes ☐ No	☒ Yes ☐ No
Section 4 – Application Determination	☒ Yes ☐ No	☒ Yes ☐ No

Estimated Cost of Works: \$182,600

Are S94A Contributions Applicable?

☒ Yes ☐ No

Warringah Section 94A Development Contributions Plan

Contribution based on total development cost of

\$ 182,600.00

Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.45%	\$822	6923
S94A Planning and Administration	0.05%	\$91	6924
Total	0.5%	\$913	

Notification Required?

☒ Yes ☐ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

Submissions Received?

No. of Submissions: 0

☐ Yes ☒ No

Are any trees impacted upon by the proposed development? ☐ Yes ☒ No

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

WLEP 2000

Locality: F5 Curl Curl

Development Definition: ☒ Housing ☐ Ancillary Development to Housing ☐ Other

Category of Development: ☒ Category 1 ☐ Category 2 ☐ Category 3



Desired Future Character:

☐ Category 1 Development with no variations to BFC's (Section 2 Assessment not required)

Is the development considered to be consistent with the Locality's Desired Future Character Statement?

☒ Yes ☐ No

☒ Category 1 Development with variations to BFC's (Section 2 Assessment Required)

☐ Category 2 Development Consistency Test (Section 2 Assessment Required)

☐ Category 3 Development Consistency Test (Section 2 Assessment Required)

Built Form Controls:

Building Height (overall): Applicable: ☒ Yes ☐ No Requirement: ☒ 8.5m ☐ 11.0m ☐ Other	☐ Existing and unchanged Proposed: 6.5m Complies: ☒ Yes ☐ No
Building Height (underside of upper most ceiling): Applicable: ☒ Yes ☐ No Requirement: ☒ 7.2m ☐ Other	☐ Existing and unchanged Proposed:5m Complies: ☒ Yes ☐ No
Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m ☐ Other Is the Corner Allotment / Secondary Street Frontage control applicable?: ☐ Yes ☒ No	☐ Existing and unchanged Proposed:4.4m to new garage Complies: ☐ Yes ☒ No Of note is the recent issue of a Building Certificate to condone an unauthorised deck on a 2.6m Front Setback.
Housing Density: (Site area 321.9sqm) Applicable: ☐ Yes ☒ No	☒ Existing and unchanged



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Landscape Open Space: Applicable: ☒ Yes ☐ No ☒ 40% (.....128.7sqm) ☐ 50% (.....sqm) ☐ Other	☐ Existing and unchanged Proposed:.....30% (.....96.55sqm) Complies: ☐ Yes ☒ No It is noted that the rear yard is partly paved. However, as details have not been shown on the plans, the actual percentage of LOS has not been calculated. A Landscaped Open Space figure around 25% would be likely if the paving were to remain. Also of note is the recent issue of a Building Certificate to condone unauthorised works namely an outbuilding in the rear yard, a rear deck and spa and a deck in the front setback. These structures all contributed to a reduction in the LOS.
Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m ☐ Other Outbuildings: Requirement: ☒ 50% of rear setback ☐ Other	☐ Existing and unchanged Proposed:14.35m Complies: ☒ Yes ☐ No Outbuildings: ☐ Existing and unchanged Proposed:25% Complies: ☒ Yes ☐ No
Side Boundary Envelope: Applicable: ☒ Yes ☐ No Requirement: ☐ 4m / 45 degrees ☒ 5m / 45 degrees ☐ Other	Boundary: ☒ Nth ☐ Sth ☐ Est ☐ Wst ☐ Existing and unchanged or Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☒ No Complies: ☒ Yes ☐ No Boundary: ☐ Nth ☒ Sth ☐ Est ☐ Wst ☐ Existing and unchanged or Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☒ No



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	Complies: ☒ Yes ☐ No
Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary ☒ Nth ☐ Sth ☐ Est ☐ Wst ☒ Existing and unchanged or Proposed:m Complies: ☒ Yes ☐ No Boundary ☐ Nth ☒ Sth ☐ Est ☐ Wst ☒ Existing and unchanged or Proposed:m Complies: ☒ Yes ☐ No

General Principles of Development Control:

CL38 Glare & reflections Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL39 Local retail centres Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL40 Housing for Older People and People with Disabilities Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL41 Brothels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL42 Construction Sites Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL43 Noise Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL44 Pollutants Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL45 Hazardous Uses Applicable:	Complies:



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☐ Yes ☒ No	☐ Yes ☐ Yes , subject to condition ☐ No
CL46 Radiation Emission Levels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL47 Flood Affected Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL48 Potentially Contaminated Land Applicable: ☒ Yes ☐ No	Complies: Based on the previous land uses is the site likely to be contaminated? ☐ Yes ☒ No Is the site suitable for the proposed land use? ☒ Yes ☐ No
CL49 Remediation of Contaminated Land Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL49a Acid Sulfate Soils Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No Details have not been submitted as requested.
CL50 Safety & Security Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL51 Front Fences and Walls Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL53 Signs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL54 Provision and Location of Utility Services Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL55 Site Consolidation in 'Medium Density Applicable:	Complies:



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☐ Yes ☒ No	☐ Yes ☐ Yes , subject to condition ☐ No
CL56 Retaining Unique Environmental Features on Site Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL57 Development on Sloping Land Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL58 Protection of Existing Flora Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL59 Koala Habitat Protection Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL60 Watercourses & Aquatic Habitats Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL61 Views Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL62 Access to sunlight Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL63 Landscaped Open Space Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No
CL63A Rear Building Setback Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL64 Private open space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL65 Privacy Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL66 Building bulk Applicable:	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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☐ Yes ☐ No	
CL67 Roofs Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL69 Accessibility – Public and Semi-Public Buildings Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL70 Site facilities Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL71 Parking facilities (visual impact) Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL72 Traffic access & safety Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL73 On-site Loading and Unloading Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL74 Provision of Carparking Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No The site has one carspace forward of the dwelling. There is no space for carparking elsewhere on the site. The proposal is to excavate and provide one and a half carspaces under the dwelling. Schedule 17 of WLEP2000 requires 2 carspaces for residential dwellings. In view of the current non-compliance with this requirement, it is considered that the proposal is satisfactory in these circumstances. The applicant however has failed to provide required information on access to the new garage.
CL75 Design of Carparking Areas Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL76 Management of Stormwater Applicable:	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No Detail of stormwater disposal from the garage has not been



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☒ Yes ☐ No	provided.
CL77 Landfill Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL78 Erosion & Sedimentation Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL79 Heritage Control Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL81 Notice to Heritage Council Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL82 Development in the Vicinity of Heritage Items Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL83 Development of Known or Potential Archaeological Sites Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

Schedules:

Schedule 5 State policies Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 6 Preservation of bushland Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 7 Matters for consideration in a subdivision of land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 8 Site analysis	Complies:



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Applicable: ☒ Yes ☐ No	☒ Yes ☐ Yes , subject to condition ☐ No
Schedule 9 Notification requirements for remediation work Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 10 Traffic generating development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 11 Koala feed tree species and plans of management Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 12 Requirements for complying development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 14 Guiding principles for development near Middle Harbour Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 15 Statement of environmental effects Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 17 Carparking provision Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No



Other Relevant Environmental Planning Instruments:

SEPPs: Applicable? ☒ Yes ☐ No

SEPP Basix: Applicable?

☒ Yes ☐ No

If yes: Has the applicant provided Basix Certification?

☒ Yes ☐ No

SEPP 55 Applicable?

☒ Yes ☐ No

Based on the previous land uses is the site likely to be contaminated?

☐ Yes ☒ No

Is the site suitable for the proposed land use?

☒ Yes ☐ No

SEPP Infrastructure

Applicable?

☒ Yes ☐ No

Is the proposal for a swimming pool:

Within 30m of an overhead line support structure?

☐ Yes ☒ No

Within 5m of an overhead power line ?

☒ Yes ☐ No

There will be excavation to the frontage including within the road reserve for the new driveway. Although unmeasured, this development is likely to be near an exposed overhead electricity power line, for which Energy Australia may require conditions for any consent. A referral to Energy Australia will be necessary in the event that an approval is to be recommended.

REPs: Applicable?: ☐ Yes ☒ No

EPA Regulation Considerations:

Clause 54 & 109 (Stop the Clock) Applicable: ☒ Yes ☐ No	Information to assist in the processing of this application was requested on 21 May 2009, 5 June 2009 and 8 July 2009. The latter letter was a final request for the information, to wit an acid-sulphate report and driveway details. Fourteen days were allowed but to date the information has not been forthcoming.
Clause 92 (Demolition of Structures) Applicable: ☒ Yes ☐ No	Addressed via condition? ☒ Yes ☐ No



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Clause 92 (Government Coastal Policy) Applicable: ☐ Yes ☒ No	Is the proposal consistent with the Goal and Objectives of the Government Coastal Policy ? ☐ Yes ☐ No
Clause 93 & 94 (Fire Safety) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 94 (Upgrade of Building for Disability Access) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 98 (BCA) Applicable: ☒ Yes ☐ No	Addressed via condition? ☒ Yes ☐ No

REFERRALS

Referral Body/Officer	Required	Response
Development Engineering	☒ Yes ☐ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☒ Unsatisfactory
Landscape Assessment	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Bushland Management	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Coastal Management	☒ Yes ☐ No Referral not sent – awaiting information	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Aboriginal Heritage	☒ Yes ☐ No	☒ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory



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Env. Health and Protection	☒ Yes ☐ No Referral not sent – awaiting information	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
NSW Rural Fire Service	☐ Yes ☐ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Energy Australia	☐ Yes ☐ No Referral not sent	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory

Applicable Legislation/ EPI's /Policies:

- | | |
|--|--|
| ☒ EPA Act 1979
☒ EPA Regulations 2000
☐ Disability Discrimination Act 1992
☐ Local Government Act 1993
☐ Roads Act 1993
☐ Rural Fires Act 1997
☐ RFI Act 1948
☐ Water Management Act 2000
☐ Water Act 1912
☐ Swimming Pools Act 1992; | ☒ SEPP No. 55 – Remediation of Land
☒ SEPP No. 71 – Coastal Protection
☒ SEPP BASIX
☒ SEPP Infrastructure
☒ WLEP 2000
☒ WDCP
☐ S94 Development Contributions Plan
☒ S94A Development Contributions Plan
☒ NSW Coastal Policy (cl 92 EPA Regulation)
☐ Other |
|--|--|

SECTION 79C EPA ACT 1979

Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	☒ Yes ☐ No
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	☒ Yes ☐ No
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	☒ Yes ☐ No
Section 79C (1) (a)(iia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	☐ Yes ☐ No ☒ N/A



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Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	☒ Yes ☐ No
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	☒ Yes ☐ No
Section 79C (1) (c) – Is the site suitable for the development?	☒ Yes ☐ No
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	☒ Yes ☐ No
Section 79C (1) (e) – Is the proposal in the public interest?	☒ Yes ☐ No



SECTION 2 – ISSUES

(Note to DAO, delete Section 2 if not applicable.)

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

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

WLEP 2000

DESIRED FUTURE CHARACTER

“The Curl Curl locality will remain characterised by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses. The land containing the existing Bowling Club at Lot 2682 DP 752038 on Abbott Road and the land containing the existing Harbord Bowling Club at Lot 4 DP 601758 on Stirgess Avenue will continue to be used only for recreation facilities.

Future development will maintain the visual pattern and predominant scale of detached style housing in the locality. The streets are to be characterised by landscaped front gardens and front building setbacks which are consistent with surrounding development. The exposed natural sandstone rock outcrops throughout the locality will be maintained. Development on prominent hillsides or hilltops must be designed to integrate with the landscape, topography and long distance views of the hill. 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 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 provided in clause 39.”

Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement. Notwithstanding, Clause 12(3)(a) only requires the consideration of the DFC statement, however as detailed under the Built Form Controls Assessment section of this report the proposed development results in non-compliances with the Front Setback and Landscaped Open Space Built Form Controls, as such pursuant to Clause 20(1) a higher test is required

Accordingly, an assessment of consistency of the proposed development against the locality's DFC is provided hereunder:

The proposed development is considered to satisfy the applicable DFC statement for the reasons detailed hereunder:

- *The residential nature of the locality is maintained by the continued use of the subject site for a detached style dwelling surrounded by landscaped settings;*
- *The proposal maintains the visual pattern and predominant scale of existing detached style housing in the locality;*
- *The proposal maintains the current landscaped front garden and is consistent with the surrounding front building setbacks and a recently approved front setback for this property;*
- *There are no exposed natural sandstone outcrops to be affected by the proposal;*

BUILT FORM CONTROLS

As detail within Section 1 (Code Assessment) the proposed development is considered to fail the Locality's Front Setback and Landscaped Open Space Built Form Controls, accordingly, further assessment is provided hereunder.

Description of variations sought and reasons provided:

Front Setback Built Form Control

Requirement: The subject site falls within the F5 Curl Curl Locality and as such is subject to the Front Building setback control of 6.5m.

Proposal:

Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m ☐ Other Is the Corner Allotment / Secondary Street Frontage control applicable?: ☐ Yes ☒ No	☐ Existing and unchanged Proposed:4.4m to new garage Complies: ☐ Yes ☒ No Of note is the recent issue of a Building Certificate to condone an unauthorised deck on a 2.6m Front Setback.
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Area of inconsistency with control: There will be a Front Setback of 4.4m to the new garage, which is to be excavated below the existing dwelling. The existing dwelling has a 4.4m Front Setback. A deck, which was constructed without approval, is located forward of the dwelling on a 2.6m Front Setback. This deck has been condoned with the recent issue of Building Certificate BC2008/0068.

Merit Consideration of Non-compliance: The Front Setback to the existing dwelling is 4.4m. The new garage will be located under the dwelling. The impact of the new garage therefore will be unchanged.

Design Guideline Characteristics: In assessing this non-compliant element of the proposal, it is necessary to consider the characteristics of the Front Setback control.

The following considerations have been applied in the assessment of the Front Setback

1: Create a sense of openness:

Comment: The existing sense of openness will be retained.

2: Provide opportunities for landscaping:

Comment: The landscape opportunities are unchanged.

3: Minimise the impact of development on the streetscape:



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Comment: The impact of the garage development under the existing dwelling on the streetscape will be unchanged.

4: Maintain the visual continuity and pattern of buildings, front gardens and landscape elements:

Comment: The visual continuity and pattern of buildings, front gardens and landscape elements will be unchanged.

Landscaped Open Space Built Form Control

Required: The subject site falls within the F5 Curl Curl locality and as such is subject to the Landscaped Open Space control of 40% of the site.

Proposal:

Landscape Open Space: Applicable: ☒ Yes ☐ No ☒ 40% (.....128.7sqm) ☐ 50% (.....sqm) ☐ Other	☐ Existing and unchanged Proposed:.....30% (.....96.55sqm) Complies: ☐ Yes ☒ No It is noted that the rear yard is extensively paved. However, details have not been shown on the plans and the actual percentage of LOS has not been calculated. A figure around 10% would be likely if the paving were to remain. Also of note is the recent issue of a Building Certificate to condone unauthorised works, namely an outbuilding in the rear yard, a rear deck and spa and a deck in the front setback. These structures all contributed to a reduction in the LOS.
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Area of inconsistency with control: The landscaped Open Space will be 30% of the site, providing paving is removed from the rear yard. Any approval should require this as a condition in the Consent.

Merit Consideration of Non-compliance: Providing the paving in the rear yard is removed, the Landscaped Open Space should be accepted, as it has already been condoned with the issue of Building Certificate, BC2008/0068.

Design Guideline Characteristics: In assessing this non-compliant element of the proposal, it is necessary to consider the Landscaped Open Space control. Accordingly, compliance with the relevant characteristics are addressed below:

1: Enable the establishment of appropriate planting to maintain and enhance the streetscape and the desired future character of the locality.

Comment: Assessed on its merits, it is considered that the proposal allows for the establishment of appropriate planting that will maintain and enhance the streetscape and address the Desired Future Character of the locality.

2: Enable the establishment of appropriate planting that is of scale and density commensurate with the building height, bulk and scale.

Comment: Providing the paving is removed from the rear yard, the existing area for the establishment of landscape works will be maintained.

3: Enhance privacy between dwellings.

Comment: The proposed works are generally within the existing building footprint. The Landscaped Open Space will be sufficient to ensure privacy between dwellings.

4: Accommodate appropriate outdoor recreational needs to suit the anticipated requirements of the occupants and provide space for service functions including clothes drying.



Comment: It is considered that the total provision of landscaped open space and the proposed additional rear setback area will enable the accommodation of appropriate outdoor recreational needs, such as entertaining, relaxation, a play area for children and meet the requirements of the dwelling occupants including clothes drying and serve as an extension of living space.

5: Incorporate the establishment of any plant species nominated in the relevant locality statement.

Comment: The locality statement does not specify any plant species nominated for establishment on the subject site or in the locality.

6: Conserve significant features on the site.

Comment: There are no unique or significant environmental features located on the subject site, other than the existing landscape elements, predominantly of introduced species.

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 fails consistency with Clauses 49a, 63 and 74 of the General Principles of Development Control and accordingly, fails to qualify 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 accordingly, 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 has been considered in relation with applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’) but no decision can be given until SEPP Infrastructure comments are received in relation to the new driveway and the proximity to overhead power lines. Accordingly, until such comments are received, the proposal fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1).

As detailed above, the proposed development is considered to fail the requirements to qualify for consideration under Clause 20(1). It is for this reason that the variation to the Front Setback and Landscaped open Space Built Form Controls (Development Standard) pursuant to Clause 20(1) is Not Supported.



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SECTION 3 – SITE INSPECTION ANALYSIS



Property Address: Lot 39 DP 5659, 30 Surf Road NORTH CURL CURL NSW 2099

Site area321.9sqm

Detail existing onsite structures:

- ☐ None
- ☒ Dwelling
- ☐ Detached Garage
- ☒ Detached outbuilding
- ☐ Swimming pool
- ☐ Tennis Court
- ☐ Cabana
- ☒ Spa and deck

Site Features:

- ☒ None
- ☒ Trees
- ☐ Under Storey Vegetation

- ☐ Rock Outcrops
- ☐ Caves
- ☐ Overhangs
- ☐ Waterfalls
- ☐ Creeks / Watercourse
- ☐ Aboriginal Art / Carvings
- ☐ Any Item of / or any potential item of heritage significance

Potential View Loss as a result of development

- ☐ Yes
- ☒ No – minor loss from 28. View sharing maintained. No objections received.

If Yes where from (in relation to site):

- ☐ North / South
- ☐ East / West
- ☐ North East / South West



Warringah Council

☐ North West / South East

View of:

Ocean / Waterways ☐ Yes ☐ No

Headland

☐ Yes ☐ No

District Views

☐ Yes ☐ No

Bushland

☐ Yes ☐ No

Other:

Bushfire Prone?

☐ Yes ☒ No

Flood Prone?

☐ Yes ☒ No

Affected by Acid Sulfate Soils

☒ Yes ☐ No

Located within 40m of any natural watercourse?

☐ Yes ☒ No

Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?

☒ Yes ☐ No

Located within 100m of the mean high watermark?

☐ Yes ☒ No

Located within an area identified as a Wave Impact Zone?

☐ Yes ☒ No

Any items of heritage significance located upon it?

☐ Yes ☒ No

Located within the vicinity of any items of heritage significance?

☐ Yes ☒ No

Located within an area identified as potential land slip?

☐ Yes ☒ No

Is the development Integrated?

☒ Yes ☐ No

Does the development require concurrence?

☐ Yes ☒ No

Is the site owned or is the DA made by the "Crown"?

☐ Yes ☒ No

Have you reviewed the DP and s88B instrument?

☒ Yes ☐ No

Does the proposal impact upon any easements / Rights of Way?

☐ Yes ☒ No



Warringah Council

Site Inspection / Desktop Assessment Undertaken by:

Does the site inspection <Section 3> confirm the assessment undertaken against the relevant EPI's <Section's 1 & 2>?	☒ Yes ☐ No
Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?	☐ Yes ☒ No If yes provide detail:

Signed

Date

Keith Wright, Senior Development Assessment Officer 3 August 2009



SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been considered against the relevant heads of consideration under S79C of the EPA Act 1979 and the proposed development is considered to be:

- ☐ Satisfactory
- ☒ Unsatisfactory

Recommendation:

That Council as the consent authority

- ☐ **GRANT DEVELOPMENT CONSENT** to the development application subject to:
- (a) the conditions detailed within the associated notice of determination; and
 - (b) the consent lapsing within three (3) from operation
- ☐ **GRANT DEFERRED COMMENCEMENT CONSENT** to the development application subject to:
- (a) the conditions detailed within the associated notice of determination;
 - (b) limit the deferred commencement condition time frame to 3 years;
 - (c) one the deferred commencement matter have been satisfactorily addressed issue an operational consent subject to the time frames detailed within part (d); and
 - (d) the consent lapsing within three (3) from operation
- ☒ **REFUSE development consent** to the development application subject to:
- (a) the reasons detailed within the associated notice of determination.

Signed _____ Date _____

Keith Wright, Senior Development Assessment Officer 3 August 2009

The application is determined under the delegated authority of:

Signed _____ Date _____

Ryan Cole, Team Leader Development Assessments 3 August 2009