



Warringah Council

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer: Alex Keller
Address / Property Description: Lot 320, DP 752017.
4 Larool Road, Terrey Hills

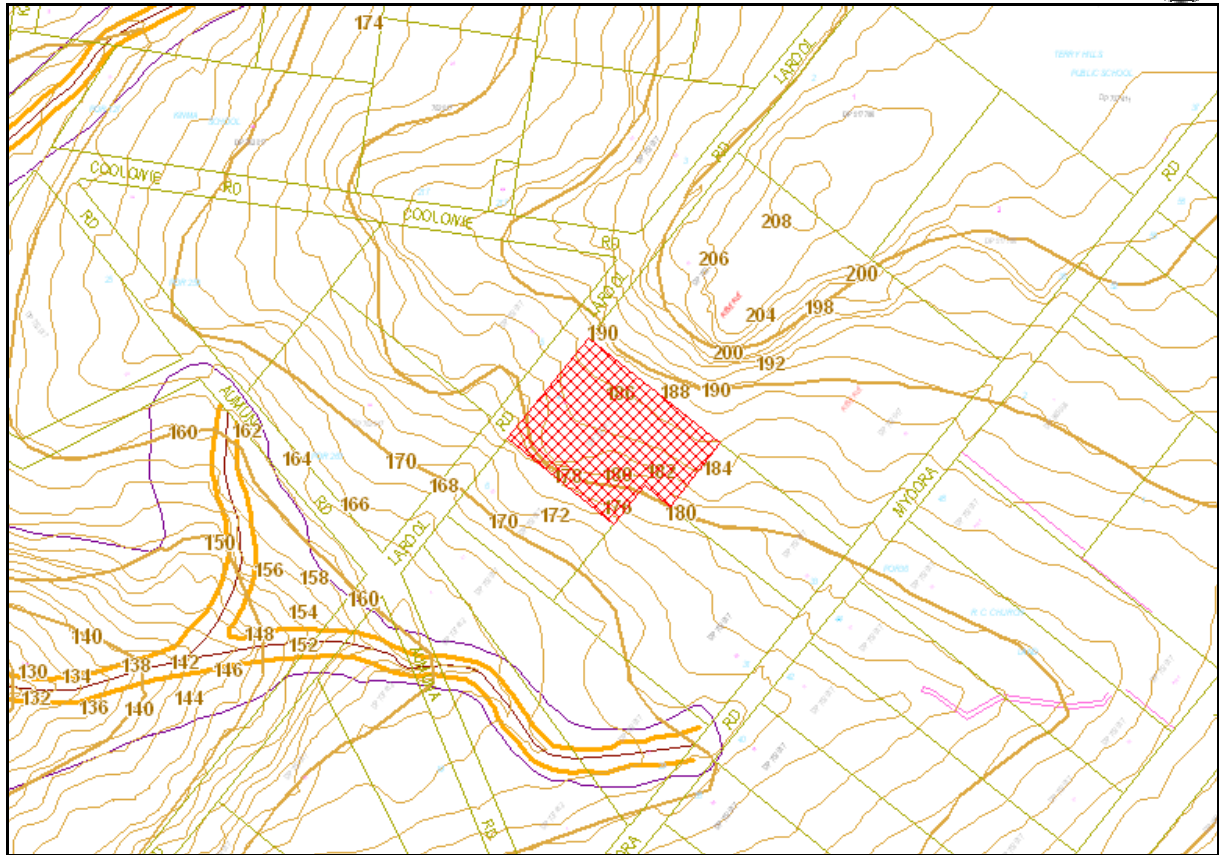
Proposal: Demolition of selected structures, conversion of existing dwelling into storage/staff building and construction of a two storey dwelling including landscaping and ancillary site works in association with a plant hire nursery.
Development Application No: **DA2008/1080**
Plans Reference: Survey: 90-0031 drawn by *Peter Bolan & Associates*, Architectural: A.02, A.04, A.05, A.06, A.07, A.08 drawn by *Arthur Gartrell Architects*
Applicant: Arthur Charles Gartrell
Owner: Lease A Leaf Property Pty Ltd
Application Lodged: 24/07/2008
Amended Plans: NO

Locality: A4 Myoora Road
Category: Category 1 – 'Housing'
Clause 20 Variations: Yes – Landscaping, site coverage.
Land and Environment Court Action: NO
Referred to WDAP: NO
Referred to ADP: NO

SUMMARY

Submissions: 30/07/2008 to 14/08/2008 (Notification Period) - Nil
Outside Notification Period(s) - Nil
Submission Issues: N/A
Assessment Issues: Housing density, building site coverage, landscaped open space, bushfire protection
Recommendation: Approval - subject to conditions
Attachments: NO

LOCALITY PLAN (not to scale)



Subject Site: Lot 320, DP 752017.
4 Larool Road, Terrey Hills

Notified Residences: Under the provisions of the *Warringah Development Control Plan* the subject application has been notified to the adjoining property owners and occupiers. As such, there were 8 notification letters sent.

SITE DESCRIPTION

The site has a legal description of Lot 320, DP 752017, and has a property address of No. 4 Larool Road, Terrey Hills. The site is located on the south-eastern side of Larool Road, between Coolowie Road and Aumuna Road. It is a board 'L' shape, with the following dimensions:

- Northern boundary: 131.04 metres
- Southern boundary: 106.18 metres
- Eastern boundary: 62.06 + 37.82 metres
- Western boundary: 99.88 metres
- Site area: 1.215 hectares

The site is currently occupied by scattered buildings for a plant hire (nursery) business, two (2) dwellings ("owner's dwelling" & "rural workers dwelling" and ancillary vehicle sheds. Along the northern boundary of the land is the owner's dwelling and two sheds that partly encroach one neighbouring land (the boundary is undefined). The "rural workers dwelling" is located fronting Larool Road. The site has an even gradient and falls 11.0 metres to the south. The site is identified as being within a bushfire prone area and has an 'extremely high' Aboriginal potential ranking on the Warringah LEP 2000 map.

The site is abuts private undeveloped land to the north-east, the 'German International School' to the southeast, and a swim centre to the south. Rural residential properties surround the site to the west and south-west.

PROPOSAL IN DETAIL

This application seeks consent for the demolition of two sheds, part demolition of an existing dwelling to convert to a staff room/storage shed, and the construction of a new dwelling including a carport and a driveway.

Demolition:

Two sheds at the northern part of the site and partial demolition of the original owner's dwelling to convert it to a staff room/ storage shed.

Construction:

New part two storey detached dwelling at the eastern end (rear) of the site, with the following configuration:

Ground floor:

- living, dining, kitchen, pantry, washroom, laundry, 2 bedrooms, bathroom, 1 ensuite bedroom
- a carport and courtyard to the north
- a courtyard and terrace to the west

First floor:

- Media, study

Driveway – relocate and extend the existing driveway along the northern boundary of the site (currently the driveway partly encroaches on adjacent property)

AMENDMENTS TO THE PLAN

There are no amended plans for this application.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) State Environmental Planning Policy No.55 - Remediation of Land
- d) State Environmental Planning Policy- Building Sustainability Index (BASIX) 2004
- e) State Environmental Planning Policy- Infrastructure 2007
- f) Rural Fires Act 1997
- g) Warringah Local Environment Plan 2000
- h) Warringah Development Control Plan
- i) Section 94A contributions Plan

REFERRALS

Rural Fire Services - Section 100B Rural Fires Act 1997

The application was referred to the *NSW Rural Fire Service* (RFS) on the 11/09/08. Council received the following conditions attached to the General Terms of Approval on the 26/09/08.

“1. Construction shall comply with AS3959 – 1999 Level 2 ‘Construction of Buildings in Bushfire Prone Areas’ to the western, northern and eastern elevations. Construction shall comply with AS3959 – 1999 Level 1 ‘Construction of Buildings in Bushfire Prone Areas’ to the southern elevation.

2. At the commencement of building works and in perpetuity the entire property should be managed as an Inner Protection Area (IPA) as outlined within ‘Planning for Bushfire Protection 2006’ and the Service’s document ‘Standards for Asset Protection Zones’.

The inner protection area should comprise the following:

- Minimal fine fuel at ground level;
- Vegetation that does not provide a continuous path to building/s for the transfer of fire;
- Shrubs and trees that do not form a continuous canopy and vegetation is planted and cleared into clumps rather than continuous rows;
- Species that retain dead material or deposit excessive quantities of ground fuel are avoided;
- Shrubs and trees are pruned or removed so they do not touch or overhang the building’s, and;
- Vegetation is located far enough away from the buildings so that plants will not ignite the buildings by direct flame contact or radiant heat emission;

3. Any proposed all new fencing shall comply with RFS Development Control Services ‘Fast Fact 2/06 – Revised December 2007 (Release 4)

4. External doors shall comply with Development Control Services ‘Practice Note 3/06 – Revised November 2007 (Release 2)

5. All exposed / external used in the development should be of a fire resistant timber species as identified in the RFS Development Control Note 001. These species include: Jarrah,



Balau (Selangan), Tallowwood, Forest Red Gum, Yellow Stringybark, Blackbutt, Kwila (Merbau), Red Iron Bark, Red River Gum, Silver Top Ash, Spotted Gum and Turpentine.”

Comments provided by the RFS are supported and conditions are included to address rural fire safety issues with the recommended conditions for DA2008/1080.

Aboriginal Heritage

The Aboriginal Heritage Office (AHO) has reviewed the proposal and provided the following comment:

There are known Aboriginal sites in the Terrey Hills area. No sites are recorded in the current development area and the area has extensive previous disturbance reducing the potential for unrecorded Aboriginal heritage.

The Aboriginal Heritage Office considers that there are no Aboriginal heritage constraints for the proposal, provided that no sandstone outcrops would be impacted by the development. If sandstone outcrops would be impacted, the AHO should be consulted further.

Should any Aboriginal sites be uncovered during earthworks, works should cease and Council and the NSW Department of Environment and Climate Change should be contacted.

Accordingly, appropriate conditions are recommended to address the concerns of the AHO.

Landscape Assessment

Council's Landscape Assessment Officer has reviewed the proposal and has no objection to the proposal subject to conditions. These have been included accordingly.

NOTIFICATION & SUBMISSIONS RECEIVED

The application was notified by letter dated 30/07/2008 to 8 properties. No submissions were received in response to the 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:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	The proposal is consistent with the relevant planning instrument. See “SEPP” and “WLEP 2000” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	This application was notified in accordance with the <i>Warringah Development Control Plan</i> .
Section 79C (1) (a)(iia) - Provisions of any Planning Agreement or Draft Planning Agreement	None applicable.
Section 79C (1) (a)(iv) - Provisions of the regulations	Clause 98 of the <i>EPA Regulations 2000</i> requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been address via a condition of consent.

Section 79C 'Matters for Consideration'	Comments
	Clause 92 of the <i>EPA Regulations 2000</i> requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been address via a condition of consent. Clause 143 of the <i>EPA Regulation 2000</i> requires a certifying authority to have regard to fire safety measures. This matter has been addressed via conditions 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 proposal refers to the part of the site that has been previously disturbed and does not require removal of existing trees on the site. Relevant conditions are imposed in regards to stormwater drainage and aboriginal heritage. Therefore, the proposal will not have a detrimental impact on the natural environment. (ii) The proposal is consistent with the merit objectives of built form controls and the relevant general principles of development controls. It will not have a detrimental impact on the streetscape and the amenity of the surrounding occupants, and thereby the built environment. (iii) The proposal will complement the existing use of the land. There is no increase in housing density and the current occupancy will remain unchanged in association with the existing business on the site. Also, the proposal is not in conflict with the adjacent educational or other surrounding land uses. Therefore, the proposal will not have a detrimental social and economic impact in the locality.
Section 79C (1) (c) – The suitability of the site for the development	The <i>NSW Rural Fire Services</i> and the Aboriginal Heritage Office have reviewed the proposal and made no objection to an approval of this application, subject to the conditions which are included in the consent. Accordingly, there are no constrains preventing the proposal from taking place and the site is suitable.
Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs	Not applicable. No submissions were received in response to the notification of this application.
Section 79C (1) (e) – The public interest	The wider public interest is served by the continued maintenance of the site, and ensuring its consistency with the relevant planning controls. The proposal is consistent and is in the public interest.

STATUTORY CONTROLS

State Environmental Planning Policy No.55- Remediation of Land

The site has historically been used for nursery and non-urban residential purposes. The northern part of the site accommodates the two sheds which are to be demolished that services the plant hire business and the eastern part of the site where the dwelling is to be constructed is cleared land and turfed. The site does not have any significant storage of fertilisers or chemicals alike. Also, the proposal is essentially a continuation of the existing use of the site and is not in conflict the proposal. Accordingly, no further consideration of this SEPP is required.



Relevant conditions in regards to future the storage of fertilisers or chemicals alike are imposed to reduce the potential risk of land contamination with ongoing operations.

State Environmental Planning Policy- Building Sustainability Index (BASIX) 2004

A BASIX Report Certificate (No.184876S) was submitted in support of the application demonstrating that the proposed scheme achieves the minimum water, thermal and energy targets, in accordance to Schedule 1 of the SEPP. In this regard, the subject application satisfies the provisions of the SEPP.

State Environmental Planning Policy- Infrastructure 2007

This application does not require a referral to the energy supply authority, as the proposed work does not consist of the following:

- the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or immediately adjacent to an electricity substation, or within 5m of an exposed overhead electricity power line,
- swimming pool
- development involving or requiring the placement of power lines underground

Warringah Local Environmental Plan 2000

Desired Future Character

The subject site is located in the A4 Myoora Road Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

LOCALITY A4

The Myoora Road locality will provide an environmental for low intensity business, community and leisure uses which do not rely on exposure to passing trade for their continued operation. Along Mona Vale Road a dense bushland buffer will be established.

New development or further intensification of existing development will provide safe vehicular access to the satisfaction of the Council and the Roads and Traffic Authority. Signs will not be permitted where they are visible from Mona Vale Road.

Articulated building forms, generous landscaped spaces around buildings and building materials that blend with the colours and textures of the natural landscape will be used to minimise the visual impact of development on long distance views of the locality.

The proposed development is identified as Category 1 development in this locality, being housing. It is considered that the proposal is consistent with the DFC Statement, for the following reasons:

- The proposal is for a new dwelling, and does not relate to the existing business on the site. Therefore, it will not affect the existing intensity of business in the locality,

and will continue the existing relationship with community and leisure uses in the locality.

- The proposal includes an extension to the existing driveway along the northern boundary of the site. The extension is within the site and will continue the use of the existing vehicular access from Larool Road to the main dwelling.
- The proposed dwelling is primarily single storey with an upstairs study and media room. The roof form is a skillion roof (reverse pitch), and the building as a whole is articulated and of a contemporary design.
- Building materials are consistent with other new dwellings in the non-urban setting of the locality. The dwelling does not substantially exceed the buildings on the site and the adjoining properties, and will not have a detrimental impact on the long distance views of the locality.
- The site is intensively used for a nursery business engaged in plant hire and therefore there is widespread areas of landscaped open space with shade houses and a mixture of equipment and rural sheds.

Built Form Controls for Locality A4 Myoora Road

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

Built Form Standard	Required	Proposed	Compliance
Maximum Building Height	8.5 metres	6.4 metres	YES
Maximum Building Height: Natural ground to upper ceiling	7.2 metres	6 metres	YES
Minimum Front Setback	20 metres	Courtyard: 90.5 metres Dwelling: 99 metres	YES
Housing Density	1 dwelling for 2 hectares of site area	2 dwellings for 1.215 hectares (Status quo retained)	NO (see comment below*)
Minimum Landscaping	70% of the site area or 8,502.38 square metres	61% of site area 7,320 m ²	NO (Clause 20 applied)
Minimum Rear Setback	7.5 metres	7.6 metres	YES
Minimum Side Setbacks	7.5 metres	Courtyard and Carport: 10.75 metres Dwelling: 22.5 metres	YES
Maximum Building Site Coverage	20% of the site area or 2429.25 m ²	25% of site area or 3,011 m ²	NO (Clause 20 applied)

*Housing density

The site is currently occupied by two dwellings. This existing situation benefits from existing development rights for a “rural workers dwelling” (222 m² fibro timber cottage) and the “owner’s dwelling” (115 m² fibro cottage) situated on site. The proposal is essentially a replacement of the “owner’s dwelling”. Therefore there is no change to the existing housing density proposed and the status quo remains.

- The subject land is still the same parcel of land (Lot 320, DP 752017) as it was when the Warringah LEP 2000 came into effect, therefore this requirement has not been compromised.
- There are no granny flats existing on site and nor is one proposed.

The impetus for the need to construct a new dwelling has been initiated by the owner's having recently being approached by their new neighbour's to undertake boundary fencing. Unfortunately the owner's residence of the subject land partially encroaches on the neighbour's land, and some other minor structures (including the driveway) which need to be removed to complete the boundary fencing. Thus in order to correct this anomaly the dwelling must be relocated, or a replacement dwelling constructed. The physical condition and configuration of the current owner's dwelling does not make it worthwhile to relocate or substantially reconfigure it. Therefore a replacement dwelling is proposed next to the original dwelling and the old dwelling is to be converted to a small staff office and storage shed.

Existing	Proposed
"Owners residence" - Fibro cottage 115 m² at the northern edge of the site partially encroaching across the boundary on adjoining land (near the swimming pool). This dwelling was constructed (pre 1960) prior to all available Council records of the site and the need for development approval under the <i>Environmental Planning & Assessment Act 1979</i>. The building is not subject to any Orders under the <i>Building Code of Australia</i> and has been maintained in a suitable standard for permanent habitation since construction. The location and existence of this dwelling is not distinctly visible from Larool Road. The exact construction date is unknown since there are no Council records available pre-dating 1960 in Larool Road and no plans available before 1963. The site has been subject to occasional routine building related inspections by Council for minor improvements since then including adjacent sheds, shade houses and a swimming pool. Therefore the existence of the dwelling has been known to Council since at least 1960 when the second dwelling on the site was approved.	The existing building will cease to be used as a dwelling and shall be partly demolished and converted to an office and staff room associated with the nursery plant hire business.
"Rural workers dwelling" – Fibro timber cottage 222 m² at the north-western area of the site, facing Larool Road. This dwelling is the newest dwelling on site approved by council consent (plan ref A193/60) prior to the <i>Environmental Planning & Assessment Act 1979</i>. Council records show the dwelling has been lawfully constructed and was completed for occupation on the 8/12/1960. It has frequently used for employees on the site associated with the intensive rural land use – mostly associated with a nursery. This dwelling is distinctly visible from Larool Road and appears as the only dwelling when	Existing dwelling maintained as a "rural workers dwelling" for employees of the former rural land use business in accordance with prior approval.

viewed from the public domain.	
	New dwelling house (DA2008/1080) - A new part 2 storey brick dwelling 446 m ² to be used as the "owners residence" at the eastern (rear) part of the site. The location of this dwelling is behind the nursery complex and is not visible from the public domain of Larool Road
Density: 2 dwellings for 1.215 hectare	Density: 2 dwellings for 1.215 hectares

Clause 20 Variation

Consent may be granted to proposed development even if the development does not comply with one or more development standards, providing 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 assessing these non-complying elements of the proposal, consideration must be given to its consistency with the general principles, desired future character and any relevant State Planning policy.

The proposal will change and increase the existing non-compliance to the built form controls for landscaping and site coverage on the land.

Landscaping Open Space

The proposal to be considered for a variation to the development standard under the provisions of Clause 20 and the objectives of the landscaping open space controls are satisfactory maintained by the following considerations:

- *Enable the establishment of appropriate planting to maintain and enhance the streetscape and the desired future character of the locality;*

The proposal generally maintains a full 20 metre landscaped setback to Larool Road already and the development will retain this appropriate setback and landscape planting within it.

- *Enable the establishment of appropriate planting that is of scale and density commensurate with the building height, bulk and scale;*

The subject site is operated as a commercial nursery and therefore the widespread planting of trees and landscaping across 70% of the site would compromise the area available for plant propagation and business use of the land. In this regard additional buildings and sheds are required for green houses, plant propagation, machinery and other equipment required to operate the nursery.

- *Enhance privacy between dwellings;*

The subject land is located within a rural setting and has sufficient separation distances to the nearest neighbours to maintain adequate natural privacy without the need for intensive landscape planting. The property is bordered by a school building to the rear and the proposed new dwelling complies with the rear setback control. The new dwelling is also not distinctly visible from the public area of Larool Road.

- *Accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants;*

The dwelling includes adequate yard area around the building for outdoor living and recreation needs of the future occupants.

- *Provide space for service functions including clothes drying;*

The site is sufficiently large enough to contain adequate area for all service functions

- *Facilitate water management including on site detention and the infiltration of stormwater;*

The subject proposal does not require on-site detention as it adjoins and maintains water re-use of site for the plant nursery as part of the business operations.

- *Incorporate the establishment of any plant species nominated in the relevant locality statement;*

The subject land is used a plant nursery and therefore the permanent establishment of plant species across the site would hinder the business operations of the nursery.

- *Conserve significant features of the site*

There are no significant features on site and the site is fully developed for rural use.

Having regard to the above, it is considered that the proposed scheme, notwithstanding the numerical variation, is still consistent with the desired future character of the locality & the general principles for development control. There are no SEPP's relevant to the proposal. The non-compliance will have a negligible effect on streetscape and the amenity of the surrounding residents. Accordingly, the variation to the front landscaping built form control is supported.

Site Coverage

The site coverage control has no specified objectives or concurrent General Principle but it is considered to work in unison with the landscaped open space control to limit building footprints and enhance the desired future character. In this regard the following matters are addressed in the consideration non-compliance with site coverage

- *Enable the establishment of appropriate planting to maintain and enhance the streetscape and the desired future character of the locality;*

The new dwelling is at the rear of the site and has no impact on the streetscape. The new dwelling will be maintained in a landscaped setting and appropriate tree plantings are used (subject to bushfire hazard) to enhance existing planting

- *Enable the establishment of appropriate planting that is of scale and density commensurate with the building height, bulk and scale;*

The subject site is operated as a commercial nursery (plant hire) and therefore much of the site is taken up by greenhouses and shade houses for the growing of plants. In this regard additional buildings and sheds are required for plant storage, revitalisation, plant propagation, machinery and other equipment required to operate the plant hire ("Lease-a-Leaf") business. The new dwelling adds additional site coverage behind the shade houses but is mostly a single storey structure with low landscaping. The planting of large trees across the site would create shade areas that would interfere with the nursery plants.

- *Facilitate water management including on site detention and the infiltration of stormwater;*

The new dwelling will incorporate full capture and water recycling with rainwater tanks. Excess water will be used in the nursery operations therefore the additional site coverage does not impact on site detention and infiltration of stormwater.

Having regard to the above, it is considered that the proposed scheme, notwithstanding the numerical variation, is still consistent with the desired future character of the locality & the general principles for development control. There are no SEPP's relevant to the proposal. The non-compliance will have a negligible effect on streetscape and the amenity of the

surrounding residents. Accordingly, the variation to the site coverage built form control 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	YES	This Clause provides that development is not to result in overspill or glare from artificial illumination, or sun reflection, and is not to unreasonably diminish the amenity of the locality. A relevant condition is imposed in this regard.	YES subject to condition
CL39 Local retail centres	NO	No Comment	N/A
CL40 Housing for Older People and People with Disabilities	NO	No Comment	N/A
CL41 Brothels	NO	No Comment	N/A
CL42 Construction Sites	YES	This Clause provides that the proposed construction site is not to unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment.	YES subject to condition
CL43 Noise	YES	This Clause provides that all noise emissions to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from construction / demolition works and these works must also comply with the provisions of the <i>Protection of the Environment Operations Act 1997</i>. A relevant condition is imposed in this regard. The dwelling is generally considered to generate a minimal level of noise. In particular, the proposal will continue the existing housing density on the site. Also, it will not exceed the existing background noise generated by the adjoining educational use. Therefore, the proposal will not result in noise emission, which would unreasonably diminish the amenity of the area and will not result in noise intrusion, which would be unreasonable to surrounding residents, and is satisfactory in addressing this Clause.	YES subject to condition
CL44 Pollutants	NO	No Comment	N/A
CL45 Hazardous Uses	NO	No Comment	N/A
CL46 Radiation Emission Levels	NO	No Comment	N/A
CL47 Flood Affected Land	NO	No Comment	N/A
CL48 Potentially Contaminated Land	YES	The site has been used for commercial purposes for a period of time. In particular, the northern part of the site accommodates two sheds servicing the plant hire business and the eastern part of the site is cleared land and turfed. The site does not have a significant storage of fertilisers or chemicals alike. Also, the proposal is essentially a continuation of the existing use of the site and is not in conflict the proposal. Accordingly, no further consideration of this Clause is required. Relevant conditions in regards to the storage of fertilisers and	YES subject to condition



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General Principles	Applies	Comments	Complies
		chemicals the like are imposed to reduce the risk of land contamination.	
CL49 Remediation of Contaminated Land	NO	No Comment	N/A
CL49a Acid Sulphate Soils	NO	No Comment	N/A
CL50 Safety & Security	YES	The proposed dwelling is located at the rear part of the site away from the street frontage and will not have a substantial impact on the safety and security of the area. Therefore, the proposal is satisfactory in addressing this Clause.	YES
CL51 Front Fences and Walls	NO	No Comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	No Comment	N/A
CL53 Signs	NO	No Comment	N/A
CL54 Provision and Location of Utility Services	YES	The site is currently satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications, electricity, and management of sewage and drainage. Therefore, the proposal is satisfactory in addressing this Clause.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	N/A
CL56 Retaining Unique Environmental Features on Site	NO	No Comment	N/A
CL57 Development on Sloping Land	NO	No Comment	N/A
CL58 Protection of Existing Flora	YES	Council's Landscape Assessment Officer has reviewed the proposal and made no objection, subject to conditions which are included in the consent. Accordingly, the proposal is considered satisfactory in addressing this Clause.	YES subject to condition
CL59 Koala Habitat Protection	NO	No Comment	N/A
CL60 Watercourses & Aquatic Habitats	NO	No Comment	N/A
CL61 Views	YES	The land generally slopes towards the south and there are bushland views downhill. The proposal is located on the higher part of the land and adjacent to the land to the north that is currently vacant. Therefore, the proposal will not affect the existing view and is satisfactory in addressing this Clause.	YES
CL62 Access to sunlight	YES	The proposed primarily single storey together with a upper story study & media rooms and is not significant in bulk. The building complies with the relevant building setback controls. Therefore, the proposal will continue to allow reasonable sunlight access to the adjoining properties and is satisfactory in addressing this Clause.	YES
CL63 Landscaped Open Space	YES	The proposed dwelling is in place of existing landscaped open space of a large site. The landscaping around the dwelling, together with the existing scattered landscaping and nurseries on the site, will main adequate dimensions	YES



Warringah Council

General Principles	Applies	Comments	Complies
		and characteristics that it will: • Enable the establishment of plantings to address the desired future character of the locality, to commensurate with the new building • Accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants • Provide space for service functions and facilitate water management Accordingly, the proposal is considered satisfactory in addressing this Clause.	
CL63A Rear Building Setback	YES	The proposal dwelling is toward the rear part of the site is satisfactory in addressing this Clause, for the following reasons: • The balance of the open space in the rear part of the site will continue a sense of openness for the new dwelling • The new dwelling will not have a detrimental impact on the adjoining properties, in views, sunlight access and privacy. • There are scattered buildings on the site and there is no apparent visual continuity and pattern of buildings, rear gardens and landscape element. This is also the similar case at the adjoining property to the east occupied by a school. Therefore, the new dwelling is acceptable in its location. • The balance of the open space in the rear part of the site will continue to provide opportunities for the planting of substantial native trees. Accordingly, the proposal is deemed to satisfy the requirements of this Clause.	YES
CL64 Private open space	YES	The balance of the open space in the rear part of the site surrounding the new dwelling is associated with the use of the dwelling. It is satisfactory in addressing this Clause, for the following reasons: • Directly accessible from a living area of the dwelling and capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreational and children's play. • Capable of receiving not less than 2 hours of sunlight between 9am and 3pm on Jun 21 over at least 50% of the rears of the private open space. • Greater than 60m² private open space with dimensions of greater than 5m. Albeit part of the private open space located on the site also used for commercial activities, however the business predominantly takes place at the front part of the site. The part of the site where the dwelling is to be located is located at the rear part of the site, adjoined by a swimming pool and nursery buildings which deter public access and is considered to provide a demarcation for the private use. Accordingly, the proposal is considered satisfactory in addressing this Clause.	NO
CL65 Privacy	YES	The northern boundary of the site abuts a currently vacant	YES

DA2008/1080 R

General Principles	Applies	Comments	Complies
		lot (with an undefined common boundary) and the eastern boundary abuts a school. Also, the dwelling is located at least 26 metres from the adjoining residential land to the south. Therefore, the proposal will not result in unreasonable privacy issues and is satisfactory in addressing this Clause.	
CL66 Building bulk	YES	The proposed dwelling is located at the rear part of the site and does not have a visible street frontage, and will not have a substantial impact on the streetscape of Larool Road. The proposed single storey together with a part second storey and does not include large areas of continuous wall planes. The proposal is not considered visually prominent or dominating the surrounding spaces, and is satisfactory in addressing this Clause.	YES subject to condition
CL67 Roofs	YES	The proposed skillion roof will not detract from the local skyline suits the contemporary style of the dwelling. Therefore, the proposal is satisfactory in addressing this Clause.	NO
CL68 Conservation of Energy and Water	YES	A BASIX certificate has been submitted for this application that satisfactory addresses this Clause.	YES
CL69 Accessibility – Public and Semi-Public Buildings	NO	No Comment	N/A
CL70 Site facilities	YES	The site currently contains adequate space for general waste and recycling storage and open air clothes drying facilities which will be suitably screened from the street and is therefore satisfactory in addressing this Clause.	YES
CL71 Parking facilities (visual impact)	YES	The carport structure is setback 99 metres from Larool Road and will not dominate the street frontage. Therefore, the proposal is satisfactory in addressing this Clause.	YES
CL72 Traffic access & safety	YES	The proposal includes a new driveway along the northern boundary of the site. It is an extension from the existing driveway accessed from Larool Road. Therefore, the proposal is essentially a continuation of the existing traffic access to the street and will continue to be satisfactory in addressing this Clause.	YES
CL73 On-site Loading and Unloading	NO	No Comment	N/A
CL74 Provision of Carparking	YES	The carport structure accommodates 2 carparking spaces and complies with the minimum requirement contained in Schedule 17 and is satisfactory in addressing this Clause.	YES See Schedule 17
CL75 Design of Carparking Areas	YES	The carport structure has a dimension which complies with the minimum requirement in this Clause and is satisfactory in this regard.	YES
CL76 Management of Stormwater	YES	The proposal does not require OSD management for stormwater due to the rural locality and available land area. The dwelling incorporates water tanks for recycling and reuse within the dwelling and for the nursery. Accordingly, the proposal is deemed to satisfy the requirements of this Clause.	YES – subject to conditions

General Principles	Applies	Comments	Complies
CL77 Landfill	NO	No Comment	N/A
CL78 Erosion & Sedimentation	YES	This Clause provides that development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Relevant conditions are imposed in this regard.	YES subject to condition
CL79 Heritage Control	NO	No Comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	N/A
CL81 Notice to Heritage Council	NO	No Comment	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	N/A
CL83 Development of Known or Potential Archaeological Sites	YES	Aboriginal Heritage Office has reviewed the proposal and made no objection, subject to conditions which are included in the consent. Accordingly, the proposal is considered satisfactory in addressing this Clause.	YES subject to condition

SCHEDULES

Schedule 8 - Site analysis

The applicant has provided a satisfactory site analysis for the property including access points, adjacent buildings and uses, geography of the site and surrounds, separations distances, previous building footprint. Therefore, the proposal is satisfactory in addressing this Schedule.

Schedule 17 - Carparking Provision

	Required	Proposed	Complies
Detached style dwelling	2 carparking spaces	2 carparking spaces	YES

POLICY CONTROLS

Warringah Section 9A Development Contribution Plan 2006

Warringah Section 94A Development Contribution Plan 2006 is applicable to this proposal, as the value of work is greater than \$100,000.

Warringah Section 94A Development Contributions Plan			
Contribution based on total development cost of		\$ 428,714.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$4,073	6923
S94A Planning and Administration	0.05%	\$214	6924
Total	1.0%	\$4,287	

A relevant condition is recommended to levy the applicable contribution.

MEDIATION

Mediation was not requested for this development 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, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

The proposed dwelling at the subject site is currently used for a nursery plant hire business and is consistent with the Desired Future Character Statement of the locality. The new dwelling at the site maintains the existing housing density. The current situation of two lawful dwellings on site exceeds the current LEP housing density but this is not being varied. The new dwelling does not comply with the minimal landscaped open space and maximum building site coverage provision that is however considered consistent with the merit objectives of the controls, in particular for the nursery business in this case. Also, the proposal is consistent with the relevant general principles of development controls. The *NSW Rural Fire Services* and the AHO have reviewed the proposal and made no objection subject to the conditions which are included with the recommend conditions. Accordingly, there are no significant physical site constraints preventing the proposal from taking place and the land is suitable for the development. Therefore it is considered the proposal be recommended for approval.

The following special condition is included to address specific assessment issues relating to the existing rural workers dwelling:

28.Rural Workers Dwelling

The second dwelling to be retained on site (north-west area) is permitted to be retained as a "rural workers dwelling" and occupied in connection with employees required for the approved nursery (plant hire) operations on site, or with an authorised change to a similar intensive rural land use. Should the need for a "rural workers dwelling" for employees cease upon any change in the use of the land then the "rural workers dwelling" shall be removed. The dwelling must not be extended or altered in any manner without prior consent, where consent is otherwise required in accordance with the Warringah LEP 2000 for such work.

Reason: *To ensure compliance with the statutory requirements and maintain the housing density in compliance with LEP controls.*

RECOMMENDATION (APPROVAL)

- A. That the Development Application DA2008/1080 for demolition of existing dwelling and construction of a new dwelling, including a driveway and a carport, at Lot 320, DP 752017, No.4 Larool Road, Terrey Hills be approved subject to the attached conditions.
- B. That pursuant to Section 95(2) of the *Environmental Planning and 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.



Warringah Council

Signed

Date

Development Assessment Officer

Signed

Date

Team Leader / Manager