

3.2 9 Gardere Avenue Curl Curl - Demolition and Construction of a Dwelling House

DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Kevin Short
Address / Property	Lot 1, DP 5539, No.9 Gardere Avenue, Curl Curl
Description:	Demolition and construction of a dwelling house
Development Application No:	DA2009/1504
Application Lodged:	11 November 2009
Plans Reference:	Drawing 01, 02 and 02a by Fergus Scott Architects
Amended Plans:	YES (Vehicle crossing profile)
Applicant:	J. Carley
Owner:	J and E Rath
Locality:	F5 Curl Curl
Category:	Category 1 (Housing)
Draft WLEP 2009 Permissible or Prohibited Land use:	Permissible – R2 Low Density Residential
Variations to Controls (Cl.20/Cl.18(3)):	YES (Building height, front building setback and landscape open space)
Referred to ADP:	YES (More than 2 unresolved objections)
Referred to WDAP:	NO
Land and Environment Court Action:	NO
SUMMARY	
Submissions:	Four (4)
Submission Issues:	View loss, privacy and overdevelopment,
Assessment Issues:	Front building setback, landscape open space, building height and view loss
Recommendation:	Approval subject to conditions
Attachments:	Site Plan with Elevations



LOCALITY PLAN (not to scale)



Subject Site:

Lot 1, DP 5539, No.9 Gardere Avenue, Curl Curl

Public Exhibition:

The application was notified in accordance with the Warringah Development Control Plan. Twenty (20) adjoining property owners were notified of the application by letter dated 23 November 2009. The notification period was from 23 November 2009 to 8 December 2009.

Four (4) submissions from four (4) property owners were received during the notification period.

Amended Plans

Following the public exhibition process described above, amended plans were received by Council in relation to the vehicle cross-over. Full details of the changes to the original proposal are discussed in detail under the *Amendments to the Subject Application* section of this report.

The amended plans differ in only minor respects to the original application and do not result in a greater environmental impact, and therefore, pursuant to Warringah Development Control Plan, the amended plans were not required to be notified.



SITE DESCRIPTION

The subject site has three (3) street frontages to Farnell Street (east) and Gardere Avenue (south and west) and is rectangular in shape with an area of 316.8m². The site contains a minor slope which runs in a west to east direction from Gardere Avenue.

The site is occupied by a single storey weatherboard clad dwelling house and a concrete driveway between the dwelling and the southern boundary. An embankment and concrete retaining wall, up to a height of approximately 4.0m, is located adjacent to the western boundary and road reserve of Gardere Street.

PROPOSAL IN DETAIL

The proposal involves the demolition of the existing dwelling and the construction of a new dwelling house with associated landscaping and site works. Specifically the proposal consists of the following works:

Dwelling House

Garage Level RL 15.75 (amended)

- Double garage and storeroom

Ground Floor RL 18.9

- Three (3) bedrooms, courtyard, rumpus room, laundry, kitchen and side elevation deck areas.

First Floor RL 21.9

- One (1) bedroom and ensuite, living area, kitchen, dining room, living deck area and side elevation deck areas.

Landscaping

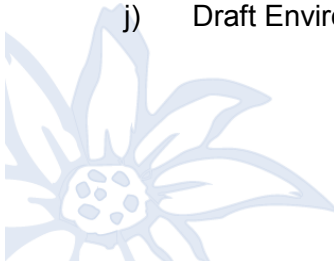
- Landscaping is proposed within the front, side and rear setback areas.

AMENDMENTS TO THE SUBJECT APPLICATION

The Applicant was requested to submit an amended Driveway Section plan to ensure the proposed driveway to Farnell Street complied with Council's Standards for Vehicle Crossings - High profile A4 3330/6 MH. An amended driveway section plan was received by Council, however, further amendments were required to ensure the proposed driveway and crossing satisfied Council requirements. To address this issue, Council Engineers imposed a special condition on the consent to lower the proposed garage level from RL 15.9 to RL 15.75 AHD.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) Local Government Act 1993
- d) SEPP BASIX
- e) SEPP (Infrastructure) 2007
- f) SEPP 55 – Remediation of Land
- g) Warringah Local Environment Plan 2000
- h) Draft Warringah Local Environment Plan 2009
- i) Warringah Development Control Plan
- j) Draft Environmental Planning Instruments



REFERRALS

External Referrals

Energy Australia

The development application was referred to Energy Australia on 19 November 2009 and no issues were raised to the proposal subject to the conditions provided to Council which have been included in the consent.

Internal Referrals

Development Engineers

Council's Development Engineers have reviewed the development application and raise no objections to the proposal subject to a condition of consent to lower the floor level of the garage by 0.15m, from RL 15.9 to RL 15.75 AHD. In this regard, the condition also notes that the overall height of the dwelling is not to increase above the RL height levels depicted on the plans.

Landscaping

Council's Landscape Officer has reviewed the development application and raises no objections to the proposal subject to suitable conditions of consent

NOTIFICATION & SUBMISSIONS RECEIVED

The application was notified in accordance with the Warringah Development Control Plan. Twenty (20) adjoining property owners were notified of the application by letter dated 23 November 2009. The notification period was from 23 November 2009 to 8 December 2009.

Four (4) submissions from four (4) property owners were received during the notification period as shown in the following table.

Respondents name	Address
A. Barlow (owner)	No.1 Farnell Street, Curl Curl
P. Lindsay (owner)	No.16 Gardere Avenue, Curl Curl
D. Stray (owner)	No.18 Gardere Avenue, Curl Curl
D and J Stray, P. Lindsay and W and F Gowen (owners)	No.16, No. 18 and No.20 Gardere Avenue, Curl Curl

The issues and concerns raised in the submissions are addressed as follows:

1. Residential Visual Impact Issues

- The proposed dwellings impact on the available views from the adjoining and surrounding property owners
- Visual impact of the proposed dwelling (including reflective glare)

Comment: The concerns are that the eastern, south-east and south-west facing vantage points of the dwellings on Gardere Avenue (between No.16 to No.20 Gardere Avenue) will suffer unacceptable impacts on views and vistas associated with the appearance of the proposed dwelling and the loss of ocean and beach interface views and surrounding distant views of Curl Curl Headland.

The proposed impact on the available views of adjoining and surrounding properties is assessed in detail under *Clause 61 Views* in the *General Principles of Development Control* table, where in summary, it is concluded that the design of the dwelling would allow for a reasonable sharing of views between adjoining and surrounding properties. In determining the reasonableness of view loss to the adjoining and surrounding

properties, the four planning principles, outlined within the Land and Environment Court Case *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, were used.

Given the above, the objections to view loss do not carry a determining weight nor do not they warrant refusal or redesign of the application.

With regard to the visual impact of the proposed development on adjoining and surrounding properties, particularly in regard to the properties on Gardere Avenue, a substantial portion of the dwelling is located beneath the Gardere Street road reserve which results in a small portion of the dwelling to protrude above the road reserve at heights between 2.0m to 5.0m. In addition, the built form has been architecturally designed with various building elements and materials, including an increased (stepped in) setback to the middle section of the western elevation, the incorporation of three (3) separate roof sections (including two (2) skillion metal roof sections and a vergola), use of open balcony structures, expansive sections of glass window and doors and balustrades and metal and timber clad external walls. Further, a condition has been included in the draft consent to ensure the roof colour tone is in the medium to dark range and the reflective index of the roof and glass windows and doors is not greater than 20%.

Based on the above, the interplay between the articulation of the dwelling and its location beneath the Gardere Avenue road reserve, will result in the dwelling's visual amenity impact on the occupants of adjoining and surrounding dwellings to be reasonable and acceptable. Accordingly, the objections do not carry a determining weight nor do not they warrant refusal or redesign of the application.

2. Privacy

Comment: Clause 65 – Privacy of WLEP of 2000 states that “*development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings*”. Concern has been raised in a submission with regard to privacy by the owner of No.1 Farnell Street. The owner of No.1 Farnell Street is concerned that the northern elevation of the proposed dwelling will allow for overlooking of the south-eastern corner of their site which is also a principle private open space.

The difference in relative heights between properties, proposed landscaping and the dividing fence between the subject site and No.1 Farnell Street will prevent overlooking from the ground floor to No.1 Farnell Street. However, the first floor deck area, located off the northern elevation of the proposed dwelling will allow for direct and close overlooking of the principle private open space at No.1 Farnell Street. As such, a draft condition has been imposed on the consent for a privacy screen to be constructed along the northern elevation of the deck which will prevent the overlooking of No.1 Farnell Street from the first floor deck area.

Based on the above, the development is consistent with the requirements of Cl.65 – Privacy of WLEP of 2000 in that the proposed development will not cause unreasonable direct overlooking of the habitable rooms and private open spaces at No.1 Farnell Street. Further, the concerns raised in relation to privacy do not warrant refusal or redesign of the application.

3. Overdevelopment of the site

- Non-compliances with the built form controls
- Bulk and scale of the dwelling

Comment: Concerns have been raised in submissions that the proposal is an overdevelopment of the site, particularly given the variations to the built form controls and the bulk and scale of the dwelling.

The building height control applying to this site and the F5 locality is 8.5m and a condition has been imposed on the consent to ensure the proposed dwelling does not exceed the standard. However, the proposal involves variations to the building ceiling height, front and landscaped open space controls. These are assessed in detail in the “*Built Form Controls*” section of this report, and in summary, are supported under a Clause 20 Variation of WLEP 2000 as the proposed development satisfies the objectives of each of the built form controls and is consistent with the Desired Future Character of the locality, General Principles of Development Control and Relevant State Environmental Planning Policies. In addition, the variations to the built form controls do not translate into detrimental external impacts to adjoining and surrounding neighbours.

The concerns also extend to the bulk and scale of the proposed dwelling including that the dwelling will present itself as three (3) storeys. As discussed under the “*Residential Visual Impact Issues*” section previously, the articulation of the built form and use of external materials and finishes will minimise the bulk of the overall dwelling to an acceptable level. In regard to the scale of the dwelling, this is dealt with in detail in the section dealing with the DFC in this report, where it is concluded that the dwelling is consistent with the scale of adjoining and surrounding development within the locality. It should also be noted that the building height control applicable to the site does not include a maximum storey limit.

Given the above, the development is not considered to be an overdevelopment of the site as the bulk of the dwelling has been significantly minimised through its design and its scale is consistent with that of adjoining and surrounding properties. Therefore, the objections do not warrant refusal or redesign of the application.

3. Errors on Plans

Comment: Concern has been raised in submissions to Council that the architectural plans contain errors and are insufficient in detail. Having reviewed the amended architectural drawings, the plans provide an accurate depiction of the proposal which satisfies the requirements of the Environmental Planning and Assessment Regulation 2000 and can be assessed accurately under Section 79C of the EPA Act 1979.

The concerns also note that the proposed elevated bridge from the footpath to allow disabled access to the western side of the building is an unreasonable use of Council land. Whilst the drawings depict a pedestrian access ramp off Gardere Avenue, insufficient details were provided in the drawings, and on this basis, a condition has been imposed on the consent requiring it to be deleted as part of any approval. In addition, the concern also notes that two (2) driveways are to be constructed as part of the proposal. A review of the drawings depicts that only one (1) driveway forms part of the application which is located on the western side of Farnell Street.

Based on the above, the concerns raised in relation to the architectural drawings do not carry a determining weight.

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	See discussion on SEPP BASIX, SEPP (Infrastructure) 2007 and WLEP 2000 in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	The proposed development is consistent with the requirements of the Draft Warringah Local Environment Plan 2009.
Section 79C (1) (a)(iii) – Provisions of any development control plan	The application was notified in accordance with Warringah Development Control Plan.
Section 79C (1) (a)(iia) – Provisions of any planning agreement or any draft planning agreement	No planning agreements or draft planning agreements apply to this application.
Section 79C (1) (a)(iv) – Provisions of the regulations	Clause 98 of the EP&A Regulation 2000 states that a prescribed condition of consent is that the development is to comply with the Building Code of Australia (BCA). It is considered that the proposal can be constructed in accordance with the BCA. Accordingly, a condition has been included in the recommendation to ensure that the proposal complies with the BCA. In addition, suitable conditions have also been included in the consent to ensure the building satisfies the requirements of Environmental Planning and Assessment Regulation 2000 Clause 92 Demolition of Structures and Clause 143 Fire protection and structural capacity.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed in detail under the General Principles of Development Control in this report and are found to be acceptable and reasonable. (ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (c) – the suitability of the site for the development	The proposal is appropriately designed to complement landscaped urbanised residential streetscape, and on this basis, the site is suitable for the residential use proposed.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	A total of four (4) submissions from four (4) property owners were received during the notification of the application. The concerns raised in the submissions are discussed in detail in the <i>'Notification and Submissions Received'</i> section of the report. The submissions raised are either satisfactorily addressed in the plans, not concurred with or do not warrant design changes or refusal of the application.
Section 79C (1) (e) – the public interest	The public interest is served by development of the site in accordance with the planning controls under the WLEP 2000, and the continued residential use of the site, and as an appropriate landuse within this locality. The variations to the planning controls have not been shown to translate into significant adverse impacts, including loss of views, overshadowing or privacy. The building is articulated with recessive building elements, including a range of roof forms, open balcony structures and a mixture of external materials and finishes. These building elements combine to minimise the bulk of the overall building when presented to the street and as viewed from adjoining and surrounding properties. Given the above, the non-compliances are satisfactory in that the articulation of the proposed dwelling will provide visual interest to the existing streetscape, which consists of a mixture of both contemporary and historic housing styles. In this regard, the development represents a satisfactory response to the sites topography and will sit comfortably in the site when viewed from the street and surrounding properties. As such, the proposed development will have an overall public benefit.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: Dwelling House

Land Use Zone: R2 Low Density Residential

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1:

Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Minimum Subdivision Lot Size:	NA.	NA.	NA.	NA.
Rural Subdivision:	NA.	NA.	NA.	NA.

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	NA.	NA.	NA.	NA.
Height of Buildings:	8.5m	8.5m (a draft condition has been imposed on the consent to ensure that the dwelling complies with the building height standard)	Yes	Yes

The proposed development is consistent with the requirements of Draft WLEP 2009.

Variations to the Building Height Development Standard

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

SEPP Infrastructure

The development application was referred to Energy Australia on 19 November 2009 and no issues were raised to the proposal subject to the conditions provided to Council which have been included in the consent.

SEPP BASIX

SEPP BASIX applies to the development and BASIX Certificate No.235046S has been submitted with the application. The certificate confirms that the proposed development meets the NSW Government's requirements for sustainability. The development meets the water and energy performance targets and achieves a pass for thermal comfort. Conditions have been included on the draft consent to ensure compliance with the commitments listed in the BASIX certificate.

SEPP No. 55 Contamination of Land

The requirements of this policy are addressed under Clause 48 Potentially contaminated land and Clause 49 Remediation of contaminated land, of the General Principles of Development Control table of this report, where it is concluded that the subject site is not contaminated and is suitable for the proposed development.

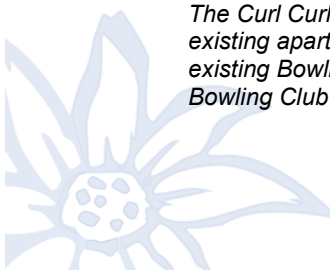
STATUTORY CONTROLS

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2000

Desired Future Character (DFC): F5 – Curl Curl locality

The subject site is located in the F5 – Curl Curl locality under Warringah Local Environmental Plan 2000. The DFC Statement for this locality is as follows:

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.

The following is an assessment of the proposal against the relevant components of the DFC:

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 proposal will result in the demolition and construction of a new dwelling house with associated landscaping, and therefore, the proposal is consistent with this component of the DFC.

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 resultant built form of the proposed dwelling is of a high standard of architectural design which is articulated with various external finishes and materials and recessive building elements. In addition, whilst the dwelling breaches the front building setbacks to Farnell Street (primary) and Gardere Avenue, the setbacks are acceptable given the narrowness of the site and that they are landscaped and consistent with adjoining development to the north.

Having regard to the above, the development is consistent with this component of the DFC.

Conclusions on consistency with the DFC

Based on the above assessment, the proposal is considered to be consistent with the DFC.

Built Form Controls

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

Built Form Controls: F5 Curl Curl locality			
Built Form Standard	Required	Proposed	Compliance
Building Height Metres/ Storeys	8.5m ground – roof	Max 8.5m Note: The height of the south-east corner of the dwelling was calculated to be 8.75m above natural ground level. Given the submissions regarding the excessive height of the dwelling, view loss concerns and the requirement of Council Engineers to lower the height of the Garage floor level from RL 15.90 to RL 15.75, it is considered appropriate in this instance for the dwelling to comply with the 8.5m maximum height standard. Based on the above, a condition has been imposed on the consent requiring	YES (subject to condition)

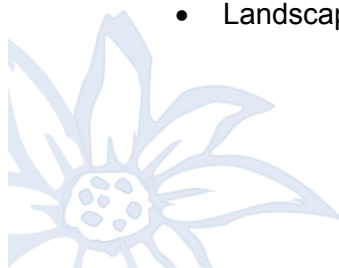
Built Form Controls: F5 Curl Curl locality			
Built Form Standard	Required	Proposed	Compliance
	7.2m ground – ceiling	the overall height of the dwelling to be lowered by 0.25m, from RL 25.25 to RL 25.00. It should be noted that this can readily be achieved by a reduction in the floor to ceiling heights of all three (3) floor levels. Max 7.9m (measured at the south-eastern portion of the dwelling)	NO(*)
Front Setback	6.5m	Primary Frontage East (to Farnell Street) 2.4m Secondary Frontage South to Gardere Avenue 6.5m to dwelling and 4.5m to ground and first floor decks West to Gardere Avenue 0.9m	NO(*) NO(*)
Rear Setback	6.0m	NA.	NA.
Side Setbacks	0.9m	North Dwelling: 2.7m to first floor deck and 4.7m to dwelling	YES
Side Boundary Envelope	5.0 m and 45 degrees	North	YES
Landscape open space	40%	35.4% (112.5m ²) Comment: These calculations account for the conditions included in the draft consent in relation to the rear and side setbacks.	NO(*)

(*) These variations are addressed below.

Variations to the Built Form Controls: F5 Curl Curl locality

As shown in the table above, the proposed development does not comply with the following Built Form Controls for the locality:

- Building Height (natural ground level to underside of ceiling)
- Front Building Setback
- Landscape Open Space



The above non-compliances are addressed below.

Clause 20 Variation (Building Height, Front Building Setback and Landscape Open Space)

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.

Council's Assessment

In assessing the non-complying elements of this proposal, consideration must be given to its consistency with the following, as the primary test under Clause 20 of WLEP 2000:

Desired Future Character (DFC) of the Locality

As discussed under the preceding section of this report, the proposal is consistent with the DFC of the Locality.

General Principles of Development Control

As discussed in the preceding section of this report, the proposal is assessed as being consistent with the General Principles of Development Control.

Relevant State Environmental Planning Policies

As discussed in this report, the proposal is assessed as being consistent with SEPP BASIX and SEPP (Infrastructure) 2007.

Based on the above assessment, the proposed development can be considered for a variation to the Building Height, Front Building Setback and Landscape Open Space.

Building Height (including ceiling height)

The Building Height control in this locality states that the maximum height of a building is not to exceed 8.5m. In addition, the control notes that the underside of the ceiling of the uppermost floor of the building is not to exceed 7.2m.

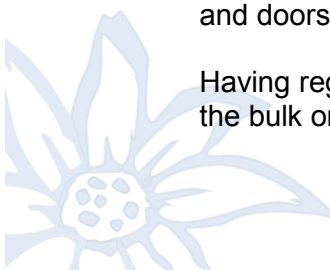
As described in the compliance table for the locality, a condition has been imposed on the consent to ensure the overall height of the dwelling does not exceed 8.5m. Notwithstanding, the underside of the ceiling of the first floor is 7.9m which does not comply with the requirements of the control.

The variation to the building height (ceiling) height control has been assessed in relation to the following considerations:

(a) The development is to be not visually dominant by virtue of its height and bulk

Comment: As discussed previously in the report, a condition has been imposed on the consent to ensure the overall height of the dwelling does not exceed 8.5m. In addition, the built form has been architecturally designed with various building elements and materials, including an increased (stepped in) setback to the middle section of the western elevation, the incorporation of three (3) separate roof sections (including two (2) skillion metal roof sections and a vergola), use of open balcony structures, expansive sections of glass window and doors and balustrades and metal and timber clad external walls.

Having regard to the above, the building ceiling height non-compliance does not contribute to the bulk or scale of the dwelling, and in this regard, the built form will provide visual interest



to the streetscape and adjoining and surrounding properties and will not allow the dwelling to be visually dominant by virtue of its height and bulk.

(b) The development shall preserve the amenity of the surrounding land

Comment: The ceiling height non-compliance does not translate into unreasonable or significant amenity impacts in terms of overshadowing, privacy, visual outlook and view loss for the occupants of adjoining and surrounding properties on Farnell Street and Gardere Avenue.

(c) The development must respond to site topography

Comment: The development does not involve an unreasonable level of excavation and the resultant dwelling will have the appearance of two (2) storeys when viewed from Farnell Street and Gardere Avenue (south) and one storey from the Gardere Street (west).

(d) The development must provide sufficient area for roof pitch and variation in roof design

Comment: The proposed development provides sufficient area for roof pitch and the roof form comprises of three (3) separate roof sections (including two (2) skillion metal roof sections and a vergola) which provides for variation in the roof design and minimises the bulk of the overall roof structure. In addition, the roof pitch is considered adequate to facilitate the disposal of stormwater.

Conclusion- Building Height

Having regard to the above, the Clause 20 Variation to the Building Height (ceiling height) is supported

Front Building Setback

The site is subject to the front building setback standard of 6.5m to Farnell Street (East) and 3.5m to Gardere Avenue (south and west). As noted under the "*Built Form Control Table*", the proposed dwelling has a primary front building setback of 2.4m to Farnell Street (East) and secondary front building setback of 4.5m (east) and 0.9m (west) respectively to Gardere Avenue. Accordingly, the proposed dwelling is non-compliant with the front building setback.

The variation to the front building setback has been assessed in relation to the following planning considerations;

(a) Create a sense of openness

Comment: With the exception of the dwelling to the south, No.1 Farnell Street, the subject site does not adjoin any other sites and has a landscaped side setback of 4.7m (measured from the ground level). In addition, the dwelling is located approximately 12.0m from the dwelling at No.1 Farnell Street.

Having regard to the above, the setbacks to the site boundary and dwelling at No.1 Farnell Street is adequate and reasonable and will maintain a sense of openness between properties.



(b) Provide opportunities for landscaping

Comment: The development is retaining the two (2) existing mature trees on the Farnell Street road reserve and proposes further landscape plantings within the front and side setbacks. Overall, the proposed landscaping of the site is of a scale and density commensurate with the bulk and scale of the proposed dwelling house and immediate streetscape.

(c) Minimise the impact of development on the streetscape

Comment: The subject allotment is constrained by its narrowness (9.45m in width) and relatively small lot size (316.8sqm), and therefore, has a limited buildable area. In addition, the site is visually prominent in that it has three (3) street frontages. Notwithstanding, the dwelling has been articulated to minimise its impact on the surrounding streetscape and has incorporated landscaping elements within the southern, eastern and northern side building setbacks to assist in screening the built form.

Having regard to the above, the impact of the development on the surrounding streetscape is acceptable and reasonable given the constraints of the site and articulation of the built form.

(d) Maintain the visual continuity and pattern of buildings, front gardens and landscape element

Comment: The proposed development will result in a two storey dwelling house which is compatible with the scale of detached style housing in the locality. The front building setbacks are not inconsistent with the adjoining dwelling to the north and the proposed level of landscaping within the front building setbacks is consistent with that of adjoining and surrounding properties.

Having regard to the above, the proposed development will not detract from the visual continuity of adjoining neighbours and will maintain the pattern of landscaping elements that characterise the locality.

Conclusion - Front Building Setback

Having regard to the above, the Clause 20 Variation to the Front Building Setback is supported

Landscaped Open Space

The minimum area of landscaped open space is 40% of the site area and is measured by excluding landscaped areas with an area less than 2.0m in area. An assessment of plans reveals that landscaped open space is calculated at 35.4% (112.2m²) which does not satisfy the standard. It should also be noted that the area beneath the northern elevation first floor deck is grassed and 12.3m² in area which would increase the landscape open space to 39.3m². However, as this area is beneath a deck it cannot be defined as landscape open space.

Accordingly, a variation to the development standard is required. The proposed development exhibits the following characteristics in relation to landscaped open space;

a) Enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality,

Comment: The proposed landscape open space will enable the establishment of appropriate planting within the front setback areas which will enhance the streetscape of Gardere Avenue and Farnell Street. Additionally, this will address the Desired Future Character within F5 – Curl Curl Locality in relation to *“the streets are to be characterised by landscaped front gardens and front building setbacks which are consistent with surrounding development”*.



b) Enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale

Comment: The existing site contains limited landscape plantings and the landscape concept plan submitted with the application provides for the establishment of a range of understorey and mature shrub and tree species. In addition, a condition has been imposed on the consent for the landscape plan to be amended to provide specific details of proposed landscaping, including the provision of two (2) locally native canopy trees on site with a minimum maturity height of four (4) metres.

Based on the above, the development will allow for the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale.

c) Enhance privacy between dwellings

Comment: The proposed vegetation located within the northern side setback is appropriate in size, foliage, density and height to assist in maintaining privacy and amenity between adjoining residences.

d) Accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants,

Comment: The proposed landscaped open space within the front and side building setbacks is sufficient in area to accommodate the outdoor recreational needs and the anticipated requirements of the dwelling's occupants.

e) Provide space for service functions, including clothes drying,

Comment: The proposed landscaped open space provides sufficient space for service functions, including clothes drying.

f) Facilitate water management including onsite detention and infiltration of stormwater,

Comment: The landscape open space area will provide adequate areas of permeable surfaces/areas for the natural infiltration of rainwater absorption into the ground and reduce stormwater runoff onsite and to the adjoining property.

g) Enable the establishment of indigenous vegetation and habitat for native fauna.

Comment: As noted above, a condition has been imposed on the consent for two (2) locally native canopy trees to be planted on site with a minimum maturity height of four (4) metres. Accordingly, the development will provide landscaping that will enable the establishment of indigenous vegetation and habitat for native fauna.

Clause 20 Variation to the Landscaped Open Space Control – Supported

Conclusion – Clause 20 Variations to the Building Height (natural ground level to underside of ceiling), Front Building Setback and Landscape Open Space.

The development has been designed so that it does not visually dominate the streetscape to Gardere Avenue and Farnell Street and preserves the amenity of the adjoining and surrounding properties. The dwelling has been designed with a high level of articulation and maintains adequate spatial separation between the proposed dwelling and adjoining dwelling to the north, No.1 Farnell Street. In addition, the proposed landscaping is adequate and is commensurate with the height and scale of the proposed dwelling.

Given the above, the Clause 20 Variations are supported.



GENERAL PRINCIPALS 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 Principal	Applies	Comments	Complies
CL38 Glare & reflection	YES	The schedule of colours and external materials submitted with the application are of earthy and natural tones which will allow the proposed dwelling to harmonise with the surrounding landscape and streetscape settings. Notwithstanding the above, the proposed roof structure has the potential to be reflective and therefore a condition has been included to ensure it is of a dark to medium colour tone.	YES (condition required)
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	It is appropriate to ensure the construction of these works are managed to ensure that the developments impact on adjoining and surrounding properties is reasonable. As such, a condition has been imposed on the consent for a construction managed plan to be submitted prior to issue of the Construction Certificate. Having regard to the above, the requirements of the General Principal are satisfied.	YES (condition required)
CL43 Noise	YES	Noise generated from the use of the dwelling is not expected to be beyond the reasonable expectations of adjoining residents in a built up residential area. With respect to the demolition of the existing dwelling and construction of the new dwelling, suitable conditions have been imposed on the consent requiring all noise emissions to be carried out in accordance with Environment Protection Authority guidelines and the provisions of the Protection of the Environment Operations Act 1997.	YES (condition required)
CL44 Pollutants	YES	A gas fire place is proposed as part of the development and a suitable condition has been attached to the consent to ensure the pollutants emitted from the chimney satisfy the relevant Australian Standards.	YES (condition required)
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 historically been used for residential purposes and there is no evidence to suggest that the site is contaminated and therefore no further consideration is required.	YES
CL49 Remediation of Contaminated Land	NO	As noted in Clause 48 above, the site has historically been used for residential purposes and therefore SEPP 55 is not applicable in this instance.	N/A
CL49a Acid Sulfate Soils	NO	No Comment.	N/A

General Principal	Applies	Comments	Complies
CL50 Safety & Security	YES	The proposal will not be detrimental to the safety and security of the locality.	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 serviced by existing utilities and this would remain the case should the application be approved.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment.	N/A
CL56 Retaining Unique Environmental Features on Site	NO	The site does not contain any unique environmental features.	N/A
CL57 Development on Sloping Land	NO	No Comment.	N/A
CL58 Protection of Existing Flora	YES	The concept landscape plan submitted with the application demonstrates that the development will provide a positive contribution to the natural resource and landscaping assets of the site and adjoining properties.	YES
CL59 Koala Habitat Protection	NO	No Comment.	N/A
CL60 Watercourses & Aquatic Habitats	NO	No Comment.	N/A
CL61 Views	YES	Clause 61 - Views Clause 61 of WLEP 2000 stipulates that "<i>Development is to allow for the reasonable sharing of view</i>". Council has received an objection from the owners of No.16, No.18 and No.20 Gardere Avenue, Curl Curl, with respect to view loss as a result of the proposed development. Concern has specifically been raised with respect to the loss of views of the Curl Curl headland, land and water interface and beach reserve from their private indoor and outdoor living areas. In addition to the above properties, the view analysis also involved No.14, No.14A and No.22 Gardere Avenue. As a result of the site inspection and subsequent assessment of the development against the principles contained in Clause 61 of WLEP, it is concluded that the proposal will not unreasonably affect the views of the properties described above as well as nearby and surrounding properties on Gardere Avenue, Farnell Street, Tenderra Place, Beverley Place and Curl Curl Parade, Curl Curl. A view loss analysis of the development was not submitted with the application, however, a computer aided photomontage of the outline of the proposed dwelling accompanied the application.	YES

General Principal	Applies	Comments	Complies
		In determining the extent of view loss to the above properties, the four planning principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were used and are detailed as follows: Principle One: The nature of views to be affected <i>The first step is to assess the nature of the views to be affected, water views are valued more highly than land views, iconic views (such as of the Opera House, the Sydney Harbour Bridge or North Head) are valued more highly than views without those icons, and whole views are valued more highly than partial views. For example, a water view in which the interface between the water and the land is visible is more valuable than one in which it is obscured.</i> Comment: The views available from each affected property are expansive and include the land/water interface Curl Curl Beach and headland, the Pacific Ocean and distant views of North Head. These views are considered highly valued. It should also be noted that the expansive views described above are partially obscured by the existing dwellings and canopy trees located at No.9 Gardere Avenue and No.2 Farnell Street. District views of Dee Why, Cur Curl and Freshwater are also available from each site and are considered to be low to moderate in value. Principle 2: Where the views are obtained <i>The second step is to consider from what part of the property affected the views are obtained. In this regard it is more difficult to protect views obtained across side boundaries than the protection of views from front and rear boundaries. Also, whether the view is obtained from a standing or sitting position may also be relevant. Sitting views being more difficult to protect. The Senior Commissioner noted that the expectation to retain side or sitting views is often unrealistic.</i> No.14 and No.14A Gardere Avenue The site contains two (2) attached two (2) storey dwellings which are orientated in an east-west direction. The potential view loss would be from the ground floor and outdoor terrace areas of the dwelling in a standing and sitting position across their side (northern) property boundary. No.16 Gardere Avenue The site contains a two (2) storey dwelling and is orientated in an east-west direction. The potential view loss would be from the carparking level of the dwelling in a standing and sitting position across their side (northern) and front (eastern) property boundaries. No.18 Gardere Avenue The site contains a three (3) storey dwelling and is orientated in an east-west direction. The potential view loss would be from the carparking level of the dwelling in a standing and sitting position across their side (northern) and front (eastern) property boundaries. No.20 Gardere Avenue The site contains a three (3) storey dwelling and is orientated in an east-west direction. The potential view loss would be from the carparking level of the dwelling in a standing and sitting position across their side (northern and southern) and front (eastern) property boundaries.	

General Principal	Applies	Comments	Complies
		No.22 Gardere Avenue The site contains a three (3) storey dwelling and is orientated in an east-west direction. The potential view loss would be from the carparking level of the dwelling in a standing and sitting position across their side (southern) property boundary. Third Principle: The extent of the impact <i>The third step is to assess the extent of the impact. This needs to be done for the whole of the property, and not just to that part of it from where the views are affected. The views from living areas (including kitchen areas) are more significant than from bedrooms or service areas. Whilst the impact could be assessed quantitatively, it is more useful to look at the issue in a qualitative sense and ask whether the view loss is negligible, minor, moderate, severe or devastating.</i> No.14 and No.14A Gardere Avenue From the first floor level and outdoor terrace area, the proposed dwelling will have a moderate impact on the distant and oblique north-eastern views from the ground floor and outdoor terrace area of Curl Curl Beach, headland and the Pacific Ocean and the obscured easterly views of the Pacific Ocean. Notwithstanding the above, the proposed development will not detract from the highly valued water and beach interface views to the east and distant view corridor to the north-east which includes the Pacific Ocean and North Head. The development will have a negligible impact on the available views from the first floor of the dwelling. Based on the above, the extent of the view loss is assessed as minor. No.16 and No.18 Gardere Avenue From the ground floor level (carparking level), the northern end portion of the proposed dwelling will have a minor impact on the distant and oblique north-eastern views of the Curl Curl land and water interface and headland and the Pacific Ocean. A majority of the view will be retained including the Curl Curl land and water interface and headland. In addition, the remaining portions of the dwelling will have a negligible impact on the obscured Pacific Ocean views to the east, water and beach interface views to the east and south-east and distant view corridor to the south-east, including the Pacific Ocean and North Head. The development will have a negligible impact on the available views from the first floor level of each dwelling and the second floor level at No.18 Gardere Avenue. Based on the above, the extent of the view loss is assessed as minor. No.20 and No.22 Gardere Avenue From the ground floor level (carparking level), the northern end portion of the proposed dwelling will have a negligible impact on the distant and oblique and obscured north-eastern views of the Curl Curl land and water interface and headland and the Pacific Ocean. In addition, the proposed	

General Principal	Applies	Comments	Complies
		dwelling will have a minor negligible impact on the obscured Pacific Ocean views to the east, water views to the east and the distant view corridor to the south-east, including the Pacific Ocean and North Head. The development will have a negligible impact on the available views from the first and second floor level of each dwelling. Based on the above, the extent of the view loss is assessed as minor. Forth Principle: The reasonableness of the proposal <i>The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all relevant planning controls would be considered more reasonable than one that breaches them. Importantly, the Senior Commissioner said that "where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable". Where a development complies with the planning controls, the question is whether a more skilfully designed proposal could provide the same development potential whilst reducing the impact to neighbours. In that situation the view impact of a complying development would probably be considered acceptable, and the view sharing reasonable.</i> Comment: The assessment of view loss caused by the development to surrounding properties is considered reasonable as the vast majority of all highly valued views are retained including all the land and water interface views of Curl Curl Beach, the Pacific Ocean and distant views of North Head. Whilst the proposal contains several non-compliances, including the building height (ceiling), front setbacks and landscaped open space, these have been assessed in detail and are not seen as an unacceptable design response to site constraints, including its narrowness, and do not translate into unacceptable view loss impacts to adjoining and surrounding neighbours. In addition, a condition has been imposed on the draft consent to ensure compliance is maintained with the maximum 8.5m building height control for the locality. Further, the development has been assessed as being consistent with the DFC for the locality, the General Principles of Development Control and relevant SEPPs.. Given the above, the development has been assessed as having a minor to negligible impact on the available views of adjoining and surrounding properties, and therefore, the design of the development is reasonable with respect to view loss to adjoining properties and does not warrant refusal or redesign of the dwelling, including a further reduction in the overall height of the dwelling and reversal of the roof slope. Accordingly, the development is reasonable and acceptable with regard to the requirements of the General Principle .	
CL62 Access to sunlight	YES	The development is assessed as being consistent with the requirements of the Clause in that the principal private open space areas at the adjoining property the north, No.1 Farnell Street, will continue to receive in excess of 2hrs of sunlight on June 21.	YES

General Principal	Applies	Comments	Complies
CL63 Landscaped Open Space	YES	As discussed throughout this report, the proposal involves the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale. Given the above, the proposal is considered to achieve the objectives of the General Principal.	YES
CL64 Private open space	YES	Private open space has been provided on-site in accordance with the requirements of the General Principle.	YES
CL65 Privacy	YES	Direct and close overlooking of the private open spaces and habitable rooms of adjoining and surrounding neighbours is prevented by sufficient spatial separation and building design including the effective location of windows and balconies, the limited number of windows along both side elevations, the use of timber and masonry privacy screens on the first floor dining room balcony, masonry fencing within the rear setback of the site and proposed landscaping. Having regard to the above, the proposal satisfies the requirements of the General Principle.	YES (conditions required)
CL66 Building bulk	YES	As previously discussed in this report, the dwelling is well articulated in terms of the incorporation of balconies, use and range of external finishes and segmented roof forms. The bulk of the building has been sufficiently relieved through these techniques such that it will have a visual bulk and an architectural scale consistent with adjoining properties and will provide a positive contribution to streetscape.	YES
CL67 Roofs	YES	The segmented skillion and vergola roof forms are considered suitable and appropriate in the roofscape of the locality.	YES
CL68 Conservation of Energy and Water	YES	A BASIX certificate was lodged with the development application which satisfies the requirements of the General Principle.	YES
CL69 Accessibility – Public and Semi-Public Buildings	NO	No Comment.	N/A
CL70 Site facilities	YES	Garbage and recycling bins are to be stored in the Garage which satisfies the requirements of this general principle.	YES
CL71 Parking facilities (visual impact)	YES	Carparking is provided in the form of a double garage at the front eastern elevation of the dwelling. The design and location of the garage satisfies the requirements of the General Principal.	YES
CL72 Traffic access & safety	YES	A new concrete driveway and cross-over is proposed off Farnell Street. The existing cross-over and driveway off the southern side of Gardere Avenue is to be converted to Landscaped Open Space. The design and location of the cross-over and driveway off Gardere Avenue is an improvement to the existing location of the driveway in terms of vehicle and pedestrian safety and vehicle sight lines. Accordingly, the design and location of the proposed cross-over and driveway satisfy the requirements of the General Principle	YES
CL73 On-site Loading and Unloading	NO	No Comment.	N/A
CL74 Provision of Carparking	YES	The garage provides two (2) off-street parking spaces which satisfies the requirements of the General Principal and Schedule 17 of WLEP 2000.	YES

General Principal	Applies	Comments	Complies
CL75 Design of Carparking Areas	YES	The dimensions of the garage satisfy the requirements of the General Principal.	YES
CL76 Management of Stormwater	YES	On-site detention is not required as part of the development and stormwater is to be directed to the Farnell Street which satisfies the requirements of the General Principal.	YES (condition required)
CL77 Landfill	YES	The development requires excavation works, however, no landfill is to be introduced on site. Accordingly, the proposal satisfies the requirements of this General Principle.	YES
CL78 Erosion & Sedimentation	YES	Appropriate conditions associated with management of erosion and sedimentation are included on the consent if the application is approved.	YES (conditions required)
CL79 Heritage Control	NO	The site is not identified as a heritage item nor is it located within a conservation area.	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	Not applicable.	N/A
CL81 Notice to Heritage Council	NO	Not applicable.	N/A
CL82 Development in the Vicinity of Heritage Items	NO	The site is not located within the vicinity of a heritage item.	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No comment.	N/A

SCHEDULES

(a) Schedule 8 - Site analysis

Adequate site analysis documentation has been provided for this application.

(b) Schedule 17 – Carparking Provision

As discussed previously in this report, the garage provides two (2) off-street parking spaces which satisfies the requirements of Schedule 17 of WLEP 2000.

POLICY CONTROLS

Warringah Section 94 Development Contribution Plan 2001

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. The following monetary contributions are required to provide for additional infrastructure generated from this development.

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$537, 585.47
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$5107.05
S94A Planning and Administration	0.05%	\$268.80
Total	1.0%	\$5375.85

A condition has been imposed on the draft consent requiring the payment of \$5375.85 in S94A levies.

MEDIATION

Mediation was not requested for this development application.

CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. 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 any conditions contained within the Recommendation.

The proposed dwelling has been designed with modern architectural features which will maintain the scale of development within the locality and also provide a positive contribution to the existing streetscape. The proposed development has been found to be consistent with the DFC statement for the F5 – Curl Curl locality and the General Principles of Development Control. The Clause 20 Variations in relation to the building height (ceiling), front building setback and landscape open space have been supported for the detailed reasons given in this report. In summary, these variations do not translate into adverse neighbour amenity impacts and that the articulation of the built form has minimised and displaced the bulk of all external walls and roof planes. In this regard, the resultant dwelling will provide a positive addition to the streetscape and maintain an acceptable visual outlook when viewed from adjoining and surrounding properties.

Further, conditions have been included in the draft consent to ensure the entire dwelling does not exceed 8.5m and that additional landscaping is planted on site to assist in maintaining the visual continuity and pattern of buildings and landscaped setbacks to adjoining properties.

The proposal was notified to neighbouring properties and during this process four (4) submissions from four (4) property owners were received during the notification of the application. In terms of the public interest, the concerns within each submission have been considered and addressed in detail in this report and found to carry no determining weight, particularly with respect to view loss and overdevelopment of the site.

Given the above, it is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. Accordingly, the proposal is recommended for approval.

RECOMMENDATION (DEFERRED COMMENCEMENT APPROVAL)

- A. That Development Application No.2009/1504 for demolition and construction of a dwelling house at Lot 1, DP 5539, No.9 Gardere Avenue, Curl Curl be granted approval subject to the following 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.

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

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:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
01	9.11.2009	Fergus Scott Architects
02	9.11.2009	Fergus Scott Architects
02b	21.12.2009	Fergus Scott Architects

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

The development is to be undertaken generally in accordance with the following:

Landscape Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
02a	19.11.2009	Fergus Scott Architects

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

2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service name	Letter Reference	Dated
Energy Australia	G:/Planning/Correspondence/CJP	22 December 2009

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Body's.

3. 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.

4. 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,

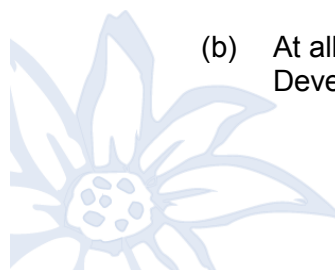
No work on Sundays and Public Holidays.

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) Smoke alarms are to be installed throughout all new and existing portions of any 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 shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

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

5. Building Height – Dwelling and Garage Level

The overall height of the dwelling is to be lowered by 0.25m, from RL 25.25 to RL 25.0 AHD. The reduction in the overall building height is to be achieved by a minor reduction in the ground floor and/or first floor level floor to ceiling heights. The garage level is to be lowered to RL 15.75 AHD as shown in red on drawing 02b by Fergus Scott Architects, dated 21.12.09.

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

Reason: To ensure compliance with Council's standards and specification for driveway access.



6. External Colours and Materials (Dwellings)

External Roofing

The external finishes and materials are to be in general accordance with the Schedule of External Finishes and Materials submitted with the Development Application. The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development.

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

7. Section 94A Contributions

5375.85 in 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$537, 585.47
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$5107.05
S94A Planning and Administration	0.05%	\$268.80
Total	1.0%	\$5375.85

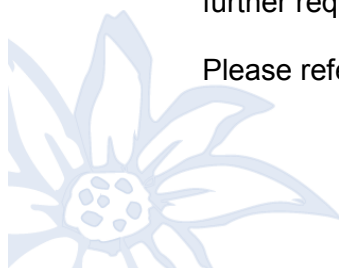
Details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development.

8. 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.

9. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee paid of \$210.00 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. 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.

Reason: To ensure adequate protection of Council infrastructure.

10. Stormwater Disposal

Plans indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments, shall be submitted prior to the issue of the Construction Certificate. The plans must indicate the provision of a rainwater tank in accordance with the BASIX certificate. Stormwater shall be conveyed from the site to the kerb in Farnell Street.

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

Reason: To ensure appropriate provision for disposal and stormwater management and compliance with the BASIX requirements, arising from the development.

11. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety.



CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

14. Vehicle Crossings

The provision of 1 vehicle crossing 5 metres wide at the kerb to 6 metres wide at the boundary in accordance with Warringah Council Drawing No A4-3330/6 Maximum High and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

15. Layback Construction

A layback 5 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property.



16. 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.

17. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees.

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

18. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

19. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.



20. 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.

21. Privacy Screen

Prior to issue of an Occupation Certificate, a fixed privacy screen is to be constructed along the northern elevation of the first floor balcony. The privacy screen shall be constructed in accordance with the following;

- (a) a minimum of 3.0m in length;
- (b) affixed to the northern side of the balcony;
- (c) a minimum 1.65m in height;
- (d) have maximum openings of 25%; and
- (e) be constructed of materials that complement and match the colour tone and materials of the dwelling;

Reason: To prevent direct overlooking into the private open space of No.1 Farnell Street Road.



NOTIFICATION PLAN

SCALE: 1:200 @ A3
DATE PRINTED: 09.12.09
DRAWN: CH
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