

3.2 1 Alfred Road, Brookvale – Review of DA2009/1517 for Alterations and Additions to Dwelling House

SECTION 82A REVIEW OF DETERMINATION

Assessment Officer: Andrew Cowan

Address / Property Description: Lot 5 DP 227987, 1 Alfred Road BROOKVALE

Proposal: Review of determination of application DA2009/1517 for alterations and additions to dwelling house including a first floor addition.

Development Application No: DA2009/1517 (Parent)
REV2010/0011 (Child)

Plan Reference: 465DA 1, Issue C

Background and Details:

The Development Application No: DA2009/1517 for alterations and additions to dwelling house including a first floor addition at Lot 5 DP 227987, 1 Alfred Road, Brookvale was refused under delegated authority on 4 February 2010. The reasons for refusal are detailed below.

Reasons for Refusal:

1. Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 12(3)(a) of Warringah Local Environmental Plan 2000, the proposal is inconsistent with the Desired Future Character of the F4 Brookvale Valley Locality.
2. Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 12(1)(a) of Warringah Local Environmental Plan 2000, the proposed development does not comply with the following General Principles of Development Control:
 - Clause 65 - Privacy
 - Clause 66 – Building Bulk
3. Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 the subject site is considered to be unsuitable for the proposed development in that the proposed development will contravene the established built form within the locality.
4. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest in that it undermines the local planning controls and will create an unacceptable impact on the built form of the F4 Brookvale Locality.

Amendments for Review:

- Reduction in bulk by stepping the upper storey addition further back away from Federal Parade. The applicant also has illustrated on the plans the location of an existing rock face at the front of the dwelling, which was not shown on the original plans and which now gives an impression of less bulk as viewed from Federal Parade.
- Change in windows and deletion of a roofed deck to improve privacy.

Section 82A Review of Determination

Section 82A of the Environmental Planning and Assessment Act, 1979 enables an applicant to request a review of determination of a development application. The following heads of consideration are discussed below:

“(1) If the consent authority is a council, an applicant may request the council to review a determination of the applicant’s application, other than:

- (a) a determination to issue or refuse to issue a complying development certificate, or*
- (b) a determination in respect of designated development, or*
- (c) a determination in respect of integrated development, or*
- (d) a determination made by the council under section 116E in respect of an application by the Crown.”*

Comment:

The proposed review of determination does not comprise any of the above types of determinations; therefore the Council has the ability to determine the subject review.

“(2) A request for a review may be made at any time, subject to subsection (2A).

(2A) A determination cannot be reviewed:

- (a) after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
- (b) after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.”*

Comment:

The review has been made within the time frame specified under Section 97. Section 97 gives 12 months for lodgement of an appeal following a decision by Council. The period for appeal expires on 20 August, 2010.

(3A) In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).

Comment:

The review makes the following amendments to the original application to address the reasons for refusal.

- Reduction in bulk by stepping the upper storey addition further back away from Federal Parade. The applicant also has illustrated on the plans the location of an existing rock face at the front of the dwelling, which was not shown on the original plans and which now gives an impression of less bulk as viewed from Federal Parade.
- Change in windows and deletion of a roofed deck to improve privacy.

(4) The council may review the determination if:

(a) it has notified the request for review in accordance with:

- (i) the regulations, if the regulations so require, or
- (ii) a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and
- (b) it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and
- (c) in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended is substantially the same development as the development described in the original application.

Comment:

The application has been notified, in accordance with the provisions of Part 1 of the Warringah DCP. The submissions received following notification of the proposal have been considered in detail under 'Public Exhibition' within this report.

(4A) As a consequence of its review, the council may confirm or change the determination. "

Comment:

The original determination has been reviewed and the reasons for refusal in the determination have been examined. It is considered that the reasons for refusal have been completely satisfied by the amendments to the original application. These are discussed in the table below:

Reason For Refusal	Comment
(a) Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 12(3)(a) of Warringah Local Environmental Plan 2000, the proposal is inconsistent with the Desired Future Character of the F4 Brookvale Valley Locality.	The proposed development is considered satisfy the applicable DFC statement in that the proposal maintains the visual pattern and predominant scale of existing detached style housing in the locality. The provision of increased setbacks of the first floor level will reduce the visual dominance of the dwelling within the streetscape.
(b) Pursuant to Section 79(C)(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and Clause 12(1)(a) of Warringah Local Environmental Plan 2000, the proposed development does not comply with the following General Principles of Development Control: Clause 65 - Privacy Clause 66 – Building Bulk	<ul style="list-style-type: none"> • Clause 65 - Privacy Deletion of the deck and amendment to windows facing easterly will reduce the potential for over-viewing adjoining properties. • Clause 66 – Building Bulk Stepping the building back from Federal Parade and removal of the roofed upper storey deck will lessen the bulk. <p><i>"Buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise. In particular side and rear setbacks are to be progressively increased as wall height increases."</i></p>
(c) Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 the subject site is considered to be unsuitable for the proposed development in that the proposed development will	The additions generally will comply with all Built Form Controls with exception to the distance of the eave from the eastern boundary. This setback is less than the required 675mm minimum. However, this is considered to be a

Reason For Refusal	Comment
contravene the established built form within the locality. (d) Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest in that it undermines the local planning controls and will create an unacceptable impact on the built form of the F4 Brookvale Locality.	minor variation which may be approved. The impact on the built form of the locality is deemed to be acceptable in that the provision of increased setbacks will reduce the visual dominance of the first floor level.

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

Estimated Cost of Works: \$306,728

Are S94A Contributions Applicable?

☒ Yes ☐ No

<i>Warringah Section 94A Development Contributions Plan</i>		
Contribution based on total development cost of	\$	306,728.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$2,914
S94A Planning and Administration	0.05%	\$153
Total	1.0%	\$3,067

Notification Required?

☒ Yes ☐ No

Submissions Received?

☒ Yes ☐ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

No. of Submissions: 2

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

**SECTION 1 – CODE ASSESSMENT REPORT
ENVIRONMENTAL PLANNING INSTRUMENTS
WLEP 2000**

Locality: F4 Brookvale Valley

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

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

Draft WLEP 2009 Permissible or Prohibited Land use:

Desired Future Character:

<p>Is the development considered to be consistent with the Locality's Desired Future Character Statement? ☐ Yes ☒ No</p>
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☒ Category 1 Development with variations to BFC's (Section 2 Assessment Required)

<p>Built Form Controls:</p> <p>Building Height (overall):</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 8.5m</p> <p>☐ 11.0m</p> <p>☐ Other</p>	<p>☐ Existing and unchanged</p> <p>Proposed: 8.27m to the highest ridge of the proposed first floor addition, taken from the rock directly below, as indicated on the elevations. This exact measurement cannot easily be confirmed because of the difficulty in obtaining an RL of the rock under the dwelling. However, from the survey details and interpolation of contours, it is considered that the height of the proposed additions will comply with the height control of 8.5m maximum.</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Building Height (underside of upper most ceiling):</p> <p>Applicable: ☐ Yes ☒ No – N/a for sites exceeding 20% slope over the building platform where buildings are under 8.5m in height.</p>	
<p>Front Setback:</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 6.5m</p> <p>☐ Other</p> <p>Is the Corner Allotment / Secondary Street Frontage control applicable?:</p> <p>☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 6.5m with a concession to 3.5m</p> <p>☐ Other</p>	<p>☐ Existing and unchanged</p> <p>Proposed: 8.5m to proposed first floor level addition</p> <p>Complies: ☒ Yes ☐ No</p> <p>Corner Allotment:</p> <p>☒ Existing and unchanged</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Housing Density: (Site 556.4sqm)</p>	<p>☒ Existing and unchanged</p>

Built Form Controls:	
<p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☐ 1 dwelling per 450sqm</p> <p>☒ 1 dwelling per 600sqm</p> <p>☐ Other</p>	<p>Complies: ☒ Yes ☐ No</p>
<p>Landscape Open Space:</p> <p>Applicable: ☒ Yes ☐ No</p> <p>☒ 40% (222.56sqm)</p> <p>☐ 50% (.....sqm)</p> <p>☐ Other</p>	<p>☒ Existing and unchanged</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Rear Setback:</p> <p>Applicable: ☐ Yes ☒ No – N/a for corner lots</p>	
<p>Side Boundary Envelope:</p> <p>Applicable: ☒ Yes ☐ No</p> <p>Requirement:</p> <p>☒ 4m / 45 degrees</p> <p>☐ 5m / 45 degrees</p> <p>☐ Other</p>	<p>Boundary: ☒ Nth ☐ Sth ☐ Est ☐ Wst</p> <p>☐ Existing and unchanged</p> <p>or</p> <p>Fully within Envelope: ☒ Yes ☐ No</p> <p>Complies: ☒ Yes ☐ No</p> <p>Boundary: ☐ Nth ☐ Sth ☒ Est ☐ Wst</p> <p>☐ Existing and unchanged</p> <p>or</p> <p>Fully within Envelope: ☒ Yes ☐ No</p> <p>Complies: ☒ Yes ☐ No</p>
<p>Side Setbacks:</p> <p>Applicable: ☒ Yes ☐ No</p> <p>☒ 900mm</p> <p>☐ 4.5m</p>	<p>Boundary ☒ Nth ☐ Sth ☐ Est ☐ Wst</p> <p>☐ Existing and unchanged</p> <p>or</p> <p>Proposed: 1.2m to proposed dwelling</p> <p>Complies: ☒ Yes ☐ No</p>

Built Form Controls:	
☐ Other	<p> Boundary ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Proposed: 1m to propose dwelling addition Complies: ☒ Yes ☐ No </p>

General Principles of Development Control:	
CL38 Glare & reflections Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL39 Local retail centres Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL40 Housing for Older People and People with Disabilities Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL41 Brothels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL42 Construction Sites Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL43 Noise Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL44 Pollutants Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL45 Hazardous Uses Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL46 Radiation Emission Levels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL47 Flood Affected Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL48 Potentially Contaminated Land Applicable: ☒ Yes ☐ No	Complies: Based on the previous land uses is the site likely to be contaminated? ☐ Yes ☒ No Is the site suitable for the proposed land use? ☒ Yes ☐ No
CL49 Remediation of Contaminated Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL49a Acid Sulfate Soils Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL50 Safety & Security Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL51 Front Fences and Walls Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL53 Signs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL54 Provision and Location of Utility Services Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL55 Site Consolidation in 'Medium Density Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL56 Retaining Unique Environmental Features on Site Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL57 Development on Sloping Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL58 Protection of Existing Flora Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL59 Koala Habitat Protection Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL60 Watercourses & Aquatic Habitats Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL61 Views Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No <p>Clause 61 stipulates 'Development is to allow for the reasonable sharing of views'.</p> <p>Council has received an objection from the owners of No.3 Alfred Road, Brookvale. In particular the objectors have raised concern to the loss of views.</p> <p>Comment:</p> <p>A site inspection revealed that some views will be lost to the south and south east. Distant views to the east will be unaffected. See photos at the end of this Section of the report.</p> <p>As stated in the assessment report for the original application, which was refused, in determining significant view loss the principles outlined within the Land and Environment Court Case <i>Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140</i>, have been used.</p> <p>In <i>Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140</i> the Land and Environment Court provided four (4) planning principles were used in the assessment of view loss.</p> <p>These principles and an assessment of the proposed development against the principles are outlined as follows:</p> <ul style="list-style-type: none"> • The first step is to assess the nature of the views to be affected. <p>Comment:</p> <p>Views are of the district and Brookvale Oval. These views are not deemed to be iconic although the view to Brookvale Oval may be considered to be of some value because of special events conducted there.</p>

General Principles of Development Control:	
	<p>› The second step is to consider from what part of the property affected the views are obtained.</p> <p>Comment: The potential view loss would be from the side windows of the objectors' dwelling and rear deck looking south. Access has not been possible, however the side window is likely to be part of the family room. Views from a family room are more valuable than views from bedrooms.</p> <p>› The third step is to assess the extent of the impact.</p> <p>Comment: As indicated, there are no iconic views affected and therefore the extent of impact is not considered sufficient reason for refusal of the application. Modification of the design to allow views to Brookvale Oval would be encouraged by deleting the Wet Bar area at the eastern end of the building.</p> <p>› The fourth step is to assess the reasonableness of the proposal that is causing the impact.</p> <p>Comment: The proposed development is deemed to be reasonable, although not preferred as stated above. Given that the proposed development is largely compliant, view loss is not considered to be adequate grounds for refusal.</p> <p>Accordingly, the proposal is considered reasonable and is acceptable with regard to the requirements of Clause 61 of WLEP2000 and that view sharing will be maintained by proposed dwelling in the proposed location.</p>
<p>CL62 Access to sunlight Applicable: ☒ Yes ☐ No</p>	<p>Complies: ☒ Yes ☐ Yes , subject to condition ☐ No</p> <p>The proposal will maintain adequate solar access to surrounding properties as the private open space areas will receive 2 hours of sunlight over at least 50% of the area between 9am and 3pm on June 21.</p>
<p>CL63 Landscaped Open Space Applicable: ☒ Yes ☐ No</p>	<p>Complies: ☒ Yes ☐ Yes , subject to condition ☐ No</p>
<p>CL63A Rear Building Setback Applicable: ☐ Yes ☒ No – N/a for corner lots</p>	<p>Complies: ☐ Yes ☐ Yes , subject to condition ☐ No</p>
<p>CL64 Private open space Applicable: ☒ Yes ☐ No</p>	<p>Complies: ☒ Yes ☐ Yes , subject to condition ☐ No</p>

General Principles of Development Control:	
CL65 Privacy Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No The proposed deck to service the first floor level has been deleted from this proposal and together with window changes to include a highlight window, there is not considered to be a privacy issue affecting neighbouring properties.
CL66 Building bulk Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No Clause 66 stipulates Buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise. The proposed first floor level addition is deemed consistent with the above as it will be not be visually dominant within the streetscape. The proposal provides increased setbacks relative to the increase in wall heights and as a result will reduce the visual dominance within the streetscape. Accordingly the proposal satisfies the general principle and is therefore satisfactory.
CL67 Roofs Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL69 Accessibility – Public and Semi-Public Buildings Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL70 Site facilities Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL71 Parking facilities (visual impact) Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL72 Traffic access & safety Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL73 On-site Loading and Unloading Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

General Principles of Development Control:	
CL74 Provision of Carparking Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No There is an existing single garage and space for addition parking on-site.
CL75 Design of Carparking Areas Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL76 Management of Stormwater Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL77 Landfill Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL78 Erosion & Sedimentation Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL79 Heritage Control Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL82 Development in the Vicinity of Heritage Items Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL83 Development of Known or Potential Archaeological Sites Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

Schedules:	
Schedule 5 State policies Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 6 Preservation of bushland Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

Schedules:	
Schedule 7 Matters for consideration in a subdivision of land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 8 Site analysis Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
Schedule 9 Notification requirements for remediation work Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 10 Traffic generating development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 11 Koala feed tree species and plans of management Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 12 Requirements for complying development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 14 Guiding principles for development near Middle Harbour Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
<u>Schedule 15 Statement of environmental effects</u> Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
<u>Schedule 17 Carparking provision</u> Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No Schedule 17 of the WLEP 2000 requires 2 car spaces to be provided per dwelling. The existing garage provides 1 undercover space. Additional open stacked car parking spaces can be provided within the subject property to comply with the requirements of schedule 17.

Other Relevant Environmental Planning Instruments:

SEPPs: Applicable? ☒ Yes ☐ No

SEPP Basix: Applicable?

☒ Yes ☐ No

If yes: Has the applicant provided Basix Certification?

☒ Yes ☐ No

SEPP 55 Applicable?

☒ Yes ☐ No

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

☐ Yes ☒ No

Is the site suitable for the proposed land use?

☒ Yes ☐ No

**SEPP Infrastructure
Applicable?**

☒ Yes ☐ No

Is the proposal for a swimming pool:

Within 30m of an overhead line support structure?

☐ Yes ☒ No

Within 5m of an overhead power line ?

☐ Yes ☒ No

Does the proposal comply with the SEPP?

☒ Yes ☐ No

REPs: Applicable?: ☐ Yes ☒ No

EPA Regulation Considerations	
Clause 54 & 109 (Stop the Clock) Applicable: ☐ Yes ☒ No	
Clause 92 (Demolition of Structures) Applicable: ☒ Yes ☐ No	Addressed via condition? ☒ Yes ☐ No
Clause 92 (Government Coastal Policy) Applicable: ☐ Yes ☒ No	Is the proposal consistent with the Goal and Objectives of the Government Coastal Policy ? ☐ Yes ☐ No

EPA Regulation Considerations	
Clause 93 & 94 (Fire Safety) Applicable: ☒ Yes ☐ No	Addressed via condition? ☒ Yes ☐ No
Clause 94 (Upgrade of Building for Disability Access) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 98 (BCA) Applicable: ☒ Yes ☐ No	Addressed via condition? ☒ Yes ☐ No

REFERRALS

Referral Body/Officer	Required	Response
Development Engineering	☐ Yes ☒ No – referred previously	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory
Landscape Assessment	☐ Yes ☒ No	
NEU	☐ Yes ☒ No	
Aboriginal Heritage	☐ Yes ☒ No	
Env. Health and Protection	☐ Yes ☒ No	
NSW Rural Fire Service	☐ Yes ☒ No	
Energy Australia	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory

Applicable Legislation/ EPI's /Policies:

- | | |
|---|---|
| ☒ EPA Act 1979 | ☐ Rural Fires Act 1997 |
| ☒ EPA Regulations 2000 | ☐ RFI Act 1948 |
| ☐ Disability Discrimination Act 1992 | ☐ Water Management Act 2000 |
| ☐ Local Government Act 1993 | ☐ Water Act 1912 |
| ☐ Roads Act 1993 | ☐ Swimming Pools Act 1992; |
| | ☒ SEPP No. 55 – Remediation of Land |

- | | |
|---|---|
| ☐ SEPP No. 71 – Coastal Protection | ☐ S94 Development Contributions Plan |
| ☒ SEPP BASIX | ☒ S94A Development Contributions Plan |
| ☒ SEPP Infrastructure | ☐ NSW Coastal Policy (cl 92 EPA Regulation) |
| ☒ WLEP 2000 | ☐ Other |
| ☒ WDCP | |

SECTION 79C EPA ACT 1979	
Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	☒ Yes ☐ No
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	☒ Yes ☐ No
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	☒ Yes ☐ No
Section 79C (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	☐ Yes ☐ No ☒ N/A
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	☒ Yes ☐ No
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	☒ Yes ☐ No
Section 79C (1) (c) – Is the site suitable for the development?	☒ Yes ☐ No
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	☒ Yes ☐ No
Section 79C (1) (e) – Is the proposal in the public interest?	☒ Yes ☐ No

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: N/a

Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Minimum Subdivision Lot Size:	450sqm	Existing - 556.6sqm	Yes	N/A

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Rural Subdivision:	N/A	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A	N/A
Height of Buildings:	8.5m	8.27m	Yes	Yes

The proposed development is consistent with the aims and objectives of the Draft WLEP 2009.



Distant views from the front porch of 3 Alfred Road will be blocked by the upper storey addition



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View of Brookvale Oval can be seen from the first floor window of 3 Alfred Road. This will be blocked by the upper storey addition.



View of Brookvale Oval from the rear porch of 3 Alfred Road will be blocked by the upper storey addition.



Views towards the coast from 3 Alfred Road will not be affected by the upper storey addition.



View of 1 Alfred Road from Federal Parade



View of 1 Alfred Road from Alfred Road

SECTION 2 – ISSUES

PUBLIC EXHIBITION

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

As a result of the public exhibition of the application Council received submissions from:

Name	Address
Mr and Mrs Ian Gray	3 Alfred Road Brookvale
Mr and Mrs Politis	2 Binba Place Brookvale

The matters of concern are as follows:

Gray -

- View loss
- Size (bulk and scale)
- Devaluation

Politis -

- Potential dual occupancy/Boarding House
- Overshadowing
- Privacy
- Bulk/scale

The matters raised within the submissions are addressed as follows:

- View loss

Comment: A site inspection revealed that some views will be lost to the south and south east. Distant views to the east will be unaffected. No iconic views are available with this site, only distant district views and views of Brookvale Oval. Accordingly, the proposal is considered reasonable and is acceptable with regard to the requirements of Clause 61 of WLEP2000.

- Size (bulk and scale)

Comment: Clause 66 of Warringah LEP 2000 stipulates buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise. The proposed first floor level addition is deemed consistent with the above as it will be not visually dominant within the streetscape.

The proposal provides increased setbacks relative to the increase in wall heights and as a result will reduce the dominance of the first floor level addition. Accordingly the proposal satisfies the general principle.

- Devaluation

Comment: Devaluation of properties is not a consideration under the Environmental Planning and Assessment Act.

- Potential dual occupancy/Boarding House

Comment: The application is for a dwelling and not for another use. The application is being assessed on the use proposed by the applicant. Any contrary use that may arise following the approval is a compliance matter.

- Overshadowing

Comment: Shadow diagrams confirm that there will be no overshadowing of the objectors' property.

- Privacy

Comment: Amendments made to the design have deleted a deck and some windows facing the objectors' property. One high-light window has been left. There is no perceived privacy issue with the revised design.

- Bulk/scale

Comment: See comments above under "Size (bulk and scale)"

OTHER MATTERS FOR FURTHER CONSIDERATION: The objector from 2 Binba Place, Brookvale requested attendance at a Council meeting so that she may attend and raise her concerns. However, following contact with this objector, a discussion of the issues raised and the intended referral to ADP for determination, a meeting was not required.



SECTION 3 – SITE INSPECTION ANALYSIS



Site area 556.4 sqm

Detail existing onsite structures:

- ☐ None
- ☒ Dwelling
- ☐ Detached Garage
- ☐ Detached shed
- ☐ Swimming pool
- ☐ Tennis Court
- ☐ Cabana

Site Features:

- ☐ None
- ☐ Trees
- ☐ Under Storey Vegetation
- ☐ Rock Outcrops
- ☐ Caves
- ☐ Overhangs
- ☐ Waterfalls

- ☐ Creeks / Watercourse
- ☐ Aboriginal Art / Carvings
- ☐ Any Item of / or any potential item of heritage significance

Potential View Loss as a result of development

- ☐ Yes ☒ Not significant – see report

If Yes where from (in relation to site):

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

View of:

- | | | |
|-------------------|------------------------------|-----------------------------|
| Ocean / Waterways | ☐ Yes | ☐ No |
| Headland | ☐ Yes | ☐ No |
| District Views | ☐ Yes | ☐ No |
| Bushland | ☐ Yes | ☐ No |

Bushfire Prone?

☐ Yes ☒ No

Flood Prone?

☐ Yes ☒ No

Affected by Acid Sulfate Soils

☐ Yes ☒ No

Located within 40m of any natural watercourse?

☐ Yes ☒ No

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

☐ Yes ☒ No

Located within 100m of the mean high watermark?

☐ Yes ☒ No

Located within an area identified as a Wave Impact Zone?

☐ Yes ☒ No

Any items of heritage significance located upon it?

☐ Yes ☒ No

Located within the vicinity of any items of heritage significance?

☐ Yes ☒ No

Located within an area identified as potential land slip?

☐ Yes ☒ No

Is the development Integrated?

☐ Yes ☒ No

Does the development require concurrence?

☐ Yes ☒ No

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

☐ Yes ☒ No

Have you reviewed the DP and s88B instrument?

☒ Yes ☐ No

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

☐ Yes ☒ No

Site and Elevation plans

Site Inspection / Desktop Assessment Undertaken by:

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

SECTION 4 – APPLICATION DETERMINATION

RECOMMENDATION – APPROVAL

That Council as the consent authority grant Consent to REVDA2010/0011 for Review of determination of application DA2009/1517 for alterations and additions to dwelling house including a first floor addition at Lot 5 in DP227987 at No.1 Alfred Road, Brookvale subject to the following conditions.

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
465DA 1 (Issue C)	26/10/09	Add Style Home Additions

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

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

2. Prescribed Conditions

Site and Elevation plans

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative Requirement. (DACPLB09)

Site and Elevation plans

3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:
7.00 am to 5.00 pm inclusive Monday to Friday
8.00 am to 1.00 pm inclusive on Saturday,
No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:
8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) 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. (DACPLB10)

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

4. Section 94A Contributions

The Section 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:

<i>Warringah Section 94A Development Contributions Plan</i>		
Contribution based on total development cost of		\$ 286,334.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	2,720.17
S94A Planning and Administration	0.05%	143.17
Total	1.0%	\$2,863

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. (DACPLC01)

5. Compliance with Standards

The development (where applicable) is to be carried out in accordance with all relevant Australian Standards.

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.
- (b) AS2601.2001 - Demolition of Structures
- (c) AS4361.2 - Guide to lead paint management - Residential and commercial buildings
- (d) AS 1428.2 - 1992, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities.

Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled

"the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

www.hreoc.gov.au/disability_rights/buildings/good.htm
<www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

- (e) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting
- (f) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted)

Site and Elevation plans

(g) AS 4970 - 2009 'Protection of trees on development sites'

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

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

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

6. External Colours and Materials (Dwellings)

External Roofing

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. (DACPLC03)

7. Bonds

Security Bond

A bond (determined from cost of works) of \$1000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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. (DACENC01)



Site and Elevation plans

