

3.2**45 Sorlie Road Frenchs Forest – Construction of two new dwellings****DEVELOPMENT ASSESSMENT REPORT**

Assessment Officer:	Michael Edwards
Address / Property Description:	Lot 201 in DP 814620 45 Sorlie Road FRENCHS FOREST NSW 2086 Construction of two new dwellings
Development Application No:	DA2009/0118
Application Lodged:	03/02/2009
Plans Reference:	Lot 1 DA Supplementary 1 of 1, 1 of 7 – 7 of 7, 1 of 2 – 2 of 2, Shadows 1 of 6 – 6 of 6, Lot 2 DA 1 of 7 – 7 of 7 Supplementary 1 of 1, 1 of 2 – 2 of 2, Shadows 1 of 6 – 6 of 6
Amended Plans:	YES
Applicant:	F L Favro
Owner:	T Favro, F L Favro
Locality:	C1 Middle Harbour Suburbs
Category:	1 (housing)
Variations to Controls (CI.20/CI.18(3)):	Building Height (Ceiling Height), Front Setback, Side Boundary Envelope and Side Setback – supported.
Referred to ADP:	YES
Referred to WDAP:	NO
Land and Environment Court Action:	NO
SUMMARY	
Submissions:	Four (4) submissions. (Two (2) were generated from one (1) property)
Submission Issues:	Commencement of works, watercourse, visual privacy, removal of natural features, overshadowing, noise, overdevelopment of the site, future additional insurance costs
Assessment Issues:	Visual privacy, compliance with Built Form Controls (Building Height (Ceiling Height), Front Setback, Side Boundary Envelope and Side Setback), retention of rock outcrop.
Recommendation:	Approval – subject to conditions
Attachments:	None

LOCALITY PLAN (not to scale)



Subject Site: Lot 201 in DP 814620
45 Sorlie Road FRENCHS FOREST NSW 2086

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 17 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days commencing on 14/02/2009 and being finalised on 03/03/2009.

SITE DESCRIPTION

Description: The subject site has a registered title of Lot 201 in DP 814620, commonly known as No. 45 Sorlie Road, Frenchs Forest, located on the south-western side of Sorlie Road. The site in total comprises an area of 1907sqm, is irregular in shape and has a predominant north-south orientation. The site has a north-eastern street-front boundary measuring 29.4m, a north-north western side boundary measuring 21.56m and 11.5, a west-south-western rear boundary measuring 7.89m, 18.55 and 31.015m, a south eastern-eastern side boundary measuring 12.75m and 44.755.

Topography: The site is located on a hillside, with a medium to steep-grade fall from the street-front towards the rear of the site of approximately 12.1m. The site is considered predominantly level at the location of the existing dwelling.

Existing Works: Currently, the subject site contains a single storey, detached style residential dwelling, typically of stone, masonry and timber construction. The site is located within the existing

established streetscape, and adjoined by detached style residential dwellings, consisting of single and double storey construction within landscaped settings. (See photographs below)

Site Burdens / Constraints: Council records reveal that the site is within the bushfire prone land buffer zone, the natural drainage buffer zone, and a sewer line transects the site, running parallel to the south-south eastern side boundary.



Photograph 1: *The subject site as viewed from Sorlie Road.*

PROPOSED DEVELOPMENT

The Applicant seeks Council's consent for the construction of two (2) dwellings on the lots approved under the Court consent. In more detail, the proposal involves the following:

Approved Lot 1

- Construction of a new two storey dwelling with an internal double garage and elevated rear deck;
- Construction of a driveway to connect to the existing driveway in the right of carriageway; and
- Landscaping works including new landscape plantings and turf.

Approved Lot 2

- Construction of a new two storey dwelling with an internal double garage and elevated rear deck;
- Construction of a driveway to connect to the existing driveway in the right of carriageway;
- Removal of trees;
- Landscaping works including new landscape plantings and turf.

AMENDMENTS TO THE SUBJECT APPLICATION

There are no amended plans submitted for this application.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy – Building Sustainability Index (SEPP BSI);
- d) State Environmental Planning Policy – Infrastructure;
- e) State Environmental Planning Policy No. 55 – Remediation of Land;
- f) Warringah Local Environment Plan 2000;
- g) Warringah Development Control Plan;
- h) Section 94A Developer Contributions Plan (Effective 01 July 2008); and
- i) Draft Environmental Planning Instruments.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 17 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days commencing on 14/02/2009 and being finalised on 03/03/2009.

As a result of the public exhibition process submissions have been received from:

Submission Received:	Address:
Kings, Linda (x2)	14a Merrilee Crescent, Frenchs Forest
Angel, Caith & Jamie	47 Sorlie Road, Frenchs Forest
Nica, Daniela	14B Merrilee Crescent, Frenchs Forest
Hollings, Steve	14 Merrilee Crescent, Frenchs Forest

Discussion of the relevant issues raised in the submissions received is provided as follows:

- **Commencement of works**

Comment: Concern is raised with regard to the commencement of works on the site.

A visual inspection of the site revealed that works associated with the upgrade of the existing driveway and provision of stormwater drainage has commenced. These works were contained in the scope of works approved by the NSW Land and Environment Court under LEC10876/2008 on 28/11/2008.

Accordingly, no further consideration of the submission issue is required and does not warrant the refusal of the application.

- **Watercourse**

Comment: Concern is raised with regard to the watercourse that is said to exist on the subject site. Specifically, in periods of heavy rain there is a significant volume of water flowing down the site and into the properties located downstream. The concern is that the additional stormwater as a result of the increased hard surfaced areas will increase the risk of flooding.

This issue was considered under the assessment of DA2007/0964 and the stormwater drainage system as approved was considered adequate to appropriately manage the increased stormwater runoff from the additional two allotments. Further, the Built Form Controls table demonstrates that both Lots 1 and 2 have a numerically complying provision of landscaped open space to allow for the infiltration of stormwater.

Accordingly, no further consideration of the submission issue is required and does not warrant the refusal of the application.

- **Visual privacy**

Comment: Concern is raised with regard to the loss of visual privacy, specifically from the outdoor deck areas of the dwelling on Lot 2.

The residents of No. 47 Sorlie Road raise concern that the deck will result in opportunities for unreasonable overlooking of the swimming pool and outdoor area, together with overlooking from the windows along the western elevation of the dwelling.

The dwelling on Lot 2 provides a privacy screen for the full length of the deck on the north-western elevation. In this regard, it is considered that there is a significant reduced ability for overlooking to the swimming pool and associated area from the rear deck.

The residents of No. 14a Merrilee Crescent raise concern that the significant size of the rear deck will result in opportunities for overlooking to the main bedroom and family room.

The deck area provides a generous setback of approximately 12.0m to the rear boundary. The assessment under Clause 65 of the General Principles of Development Control demonstrates that this element of the proposal is satisfactory as the proposal includes a privacy screen, there is sufficient separation between dwellings which is further interrupted by existing mature landscape plantings.

Accordingly, no further consideration of the submission issue is required and does not warrant the refusal of the application.

- **Removal of natural features**

Comment: Concern is raised with regard to the removal of natural features including trees and rock outcrops and that the further removal of these features will undermine the stability of the ground.

The proposal includes the removal of five (5) trees on Lot 2. It is considered that the removal of these trees will not significantly impact the structural stability of the ground. Further, the rock outcrop located on Lot 2 was considered to be significant to the site under DA2007/0964 and pursuant to the assessment against Clause 56 of WLEP 2000, a condition of consent was imposed to ensure its retention. Accordingly, there will be no physical impact to the rock outcrop and the design of the dwelling on Lot 2 will be situated over this feature.

Should this application be recommended for approval, the imposition of standard conditions of consent will ensure the appropriate management of the site during excavation and construction works to reduce the impact on adjoining properties.

Accordingly, no further consideration of the submission issue is required and does not warrant the refusal of the application.



- **Overshadowing**

Comment: Concern is raised with regard to the extent of overshadowing as a result of the two, two storey dwellings on Lots 1 and 2, resulting in a loss of sunlight in the morning to No.14B Merrillee Crescent.

The shadow diagrams submitted with the application demonstrate an increase in the level of overshadowing. The assessment under Clause 62 of the General Principles of Development Control demonstrates that the impact to solar access is reasonable and the proposal is satisfactory in this regard.

Accordingly, no further consideration of the submission issue is required.

- **Noise**

Comment: Concern is raised with regard to the acoustic impact from the rear deck of the proposed dwelling on Lot 2 given its size and location.

The assessment under Clause 43 of the General Principles of Development Control demonstrates that the proposal is satisfactory in this regard in that the proposed development maintains a residential use of the site, provides adequate separation between dwellings and orientates the main living areas to maximise the separation between adjoining dwellings.

Accordingly, no further consideration of the submission issue is required and does not warrant the refusal of the application.

- **Overdevelopment of the site**

Comment: Concern is raised with regard to the perceived overdevelopment of the site. Specifically, the non-compliances of the dwellings including the non-compliance with the rear setback of Lot 3.

Lot 3 contains an existing dwelling. There are no works proposed to the dwelling on Lot 3 as part of this application. In this regard, there is no alteration to the rear building setback.

While the dwelling on Lot 2 results in non-compliance with the building height and side boundary envelope Built Form Controls (development standards), the non-compliances are the result of providing a dwelling design that ensures the retention of the rock outcrop in accordance with the conditions of the NSW Land and Environment Court consent [LEC10876/2008].

A merit assessment of the non-complying elements is considered further in this report, pursuant to Clause 20 of the WLEP 2000, which demonstrates that the non-complying elements are satisfactory in that the non-compliance does not significantly contribute to building bulk or overshadowing, does not result in a direct unreasonable impact to visual privacy and does not result in an unreasonable impact to views.

In addition, the general compliance with the Built Form Controls demonstrates that the dwellings are not an overdevelopment of the site.

Accordingly, no further consideration of the submission issue is required and does not warrant the refusal of the application.

- **Future additional insurance costs**

Comment: Concern is raised with regard to the increase in insurance costs due to the changed risk from the development of the subject site.

Future costs as a result of development are not a matter for consideration under S79(C) of the Environmental Planning and Assessment Act 1979. The proposed works are permissible under the statutory planning instruments and subject to the conclusions of this report may be acceptable subject to conditions.

As such, this matter does not warrant the refusal of the application.

MEDIATION

Has mediation been requested by the objectors? No

REFERRALS

A summary of the relevant comments is provided as follows:

a) Development Engineers

No objection was raised in relation to the proposed works; subject to conditions of consent which will be imposed should this application be recommended for approval.

b) New South Wales Rural Fire Service

No objection was raised in relation to the proposed works, subject to conditions of consent, of which would be imposed should this application be recommended for approval.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79(C) 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	Refer to discussions on Environmental Planning Instruments as contained in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Refer to discussions on Draft Environmental Planning Instruments as contained in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan is applicable to this application and the relevant provisions are considered in this report.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>Pursuant to Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.</p> <p>Clause 98 of the EPA Regulations 2000 requires the consent authority to impose a condition requiring compliance with the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be recommended for approval.</p>
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	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental</p>

Section 79C 'Matters for Consideration'	Comments
	<p>social impact in the locality considering the residential character of the proposal.</p> <p>(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.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The proposed development is sited within an established residential locality, maintaining the existing residential use of the site.</p> <p>The general compliance with the Built Form Controls and General Principles of Development Control, demonstrate that the site is suitable for the construction of two detached residential dwellings.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	<p>In regards to public submissions refer to the discussion on "Notification & Submissions" as contained within this report.</p>
Section 79C (1) (e) – the public interest	<p>The wider public interest is served by the continued maintenance of the site, and its ability to provide an appropriate land use and permissible development within this locality.</p> <p>Should the proposal be considered worthy of approval, conditions of consent would be imposed to serve the public interest.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

Council records indicate that the subject site has been consistently used for residential purposes for a significant period of time. There is no evidence to indicate that the land is contaminated and as such, no further consideration under Clause 7(1)(b) and (c) of SEPP 55 is required. Therefore the land is suitable for the continued residential use.

State Environmental Planning Policy – Building Sustainability Index (SEPP BSI)

In accordance with Schedule 1 of the Regulations and SEPP BSI a BASIX Report was submitted in support of the application demonstrating that the proposed scheme achieves the minimum water, thermal and energy targets. In this regard, the subject application is considered to satisfy the provisions of the Regulations and the SEPP BSI.

State Environmental Planning Policy – Infrastructure (SEPP Infrastructure)

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

Regional Environmental Planning Policies

There are no Regional Environmental Planning Policies applicable to this application.

Warringah Local Environment Plan 2000 (WLEP 2000)

Warringah Local Environmental Plan 2000

Desired Future Character

The subject site is located in the C1 Middle Harbour Suburbs Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

'The Middle Harbour Suburbs locality will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses. The land adjacent to Middle Harbour and occupied by the Mosman Rowing Club will be retained for low-scale recreational use sympathetic to its natural setting. The land occupied by the Killarney Heights Tennis Centre at Lot 841 DP 210006 and land occupied by the Killarney Heights Swim Centre at Lot 854 DP 210006 on Tralee Avenue and the land occupied by Belrose Bowling Club at Lot 2 DP 851739 on Forest Way, will continue to be used only as recreation facilities.

The south-west section of the Killarney Heights High School grounds contains bushland and rock outcrops: this area may be developed for housing. Development in this section will recognise the bushland outlook, views and privacy enjoyed from residences adjoining the northern and western boundaries of the site and ensure development reasonably maintains these qualities. The retention of existing landscaping is encouraged, where practical.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the 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 relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography. Development on land which adjoins Middle Harbour shall have regard to the principles contained in Schedule 14.

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 listed in clause 39.

Future development of the environmentally sensitive land shown cross-hatched on the map will be limited to one dwelling per allotment. Such dwelling will be constructed having regard to the constraints, potential instability, visual sensitivity and impact on the water quality of Middle Harbour.'

Pursuant to Clauses 6 and 14(1) of WLEP 2000, the proposed development is defined as 'housing' and as such, is identified as Category 1 development in this locality.

Clause 12(3)(a) states that the Consent Authority must consider the Desired Future Character described in the relevant Locality Statement.

As the proposed works involve variations to Built Form Controls, Clause 20 requires a higher consistency test of the development against the Desired Future Character Statement.

Accordingly, an analysis of the various relevant components of the Desired Future Character of the C1 Middle Harbour Suburbs Locality is as follows:

- The proposed works being for residential dwellings, maintains the character of detached-style housing and will maintain the landscaped setting of the site.
- Given the topography of the site, when viewed from the streetscape, the dwellings present as single storey in height. In this regard, it is considered that the dwellings maintain the visual pattern and predominant scale of existing development in the immediate streetscape and provide a consistent front building setback with opportunities for a landscaped front garden.
- The proposed works will not unreasonably impact on the bushland setting of the dwelling, being contained predominantly to existing areas cleared of significant bushland vegetation. The dwelling on Lot 2 has been designed to 'sit over' the rock outcrop ensuring its retention. In this regard, it is considered that the dwellings have been sympathetically designed to integrate with the natural features.

The test above demonstrates that the proposed development is consistent with the Desired Future Character Statement.

Built Form Controls for Locality C1 Middle Harbour Suburbs

The following table outlines compliance with the Built form Control of the above locality statement:

Built Form Standard	Required	Proposed	Compliance Comment	Compliance
Building Height Metres				
Lot 1 Lot 2	8.5m 8.5m	7.7m 9.0m	Comply. See assessment for variation under Clause 20 of WLEP 2000.	YES NO
Building Height: Natural ground to upper ceiling (metres)				
Lot 1 Lot 2	7.2m 7.2m	6.6m 8.2m	Comply. See assessment for variation under Clause 20 of WLEP 2000.	YES NO
Front Setback				
Lot 1 Lot 2	6.5m 6.5m	7.1m 5.4m to dwelling	Comply. See assessment for variation under Clause 20 of WLEP 2000.	YES NO
Housing Density				
Lot 1 Lot 2	1/600sqm 1/600sqm	1/676.0sqm 1/618.0sqm	Comply. Comply.	YES YES

Built Form Standard	Required	Proposed	Compliance Comment	Compliance
Landscaped Open Space				
Lot 1				
Lot 2	40% of site 40% of site	45% (307.2sqm) 53% (327.1sqm)	Comply. Comply.	YES YES
Rear Setback				
Lot 1	6.0m	12.4m	Comply.	YES
Lot 2	6.0m	12.0m	Comply.	YES
Side Boundary Envelope				
Lot 1				
Lot 2	4m / 45 degrees 4m / 45 degrees	No breach Breaches to both side elevations	Comply. See assessment for variation under Clause 20 of WLEP 2000.	YES NO
Side Boundary Setbacks				
Lot 1	Min 900mm	Western – 800mm minimum 6.3m maximum Eastern – 2.0m Northern – 900mm minimum 1400mm maximum Southern – 900mm minimum 1500mm maximum	See assessment for variation under Clause 20 of WLEP 2000. Comply.	NO
Lot 2	Min 900mm			YES

The proposed development is considered to fails satisfy the Locality's Building Height (Ceiling Height), Front Setback, Side Boundary Envelope and Side Setback Built Form Controls, accordingly, further assessment is provided against the provisions of Clause 20(1) hereunder.

Clause 20 Variation

Pursuant to Clause 20 of WLEP 2000, consent may be granted to proposed development notwithstanding that the development does not comply with one or more of the abovementioned 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 Statement Environmental Planning Policies.

Does the Proposal Qualify for a Clause 20 Variation?

In determining whether the proposal qualifies for a Clause 20 variation under WLEP 2000, consideration must be given to the following:

General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20 (refer to General Principles table in the Assessment Report for a detailed assessment of compliance with the General Principles.)

Desired Future Character of the Locality

The subject site is located within the C1 Middle Harbour Suburbs Locality, which, in the locality of the subject site, is characterised by residential uses. The proposal is considered to be consistent with the Desired Future Character of the locality due to its residential character in conjunction with the proposal having a similar bulk, scale and form of adjoining and surrounding development, further, maintaining the landscaped setting of the locality. As such, the proposal is considered to

satisfy this component of Clause 20. (Refer to discussion in assessment report on consistency with the DFC)

Relevant State Environmental Planning Policies

The provisions of the relevant State Environmental Planning Policies have been considered in the assessment of the application and considered satisfactory. Accordingly, the proposal satisfies this criterion of Clause 20.

Description of variations sought and reasons provided:

Building Height (Ceiling Height) – Lot 2 dwelling

Required: The site is subject to the maximum Building Height development standard of 8.5m overall building height and 7.2m to the underside of the uppermost ceiling, both measured from natural ground level.

Proposed: The proposed dwelling on Lot 2 provides a maximum building height of approximately 9.0m and 8.2m to the underside of the uppermost ceiling.

Response: The design of the dwelling on Lot 2 is considered to respond sympathetically to the natural features on the site in addition to being consistent with the bulk, scale and height of surrounding and nearby structures. Specifically, the dwelling is situated on a raised platform to ensure the retention of the rock outcrop below.

When viewed from the adjoining properties and from the streetscape, the dwelling does not present a sense of excessive building height or bulk given the stepping of the building mass down the site.

The additional building height does not significantly contribute to overshadowing and does not result in any unreasonable impact to the amenity of the adjoining properties.

Accordingly, variation to the Built Form Control is supported under Clause 20 of WLEP 2000.

Front Setback – Lot 2 dwelling

Required: The site is subject to the Front Building Setback control of 6.5m.

Proposed: The proposed dwelling on Lot 2 provides a front setback of 5.4m.

Response: The proposed dwelling provides a reasonable sense of openness within the front setback area, with areas sufficient in dimension for the accommodation of landscape plantings that are commensurate with the building height, bulk and scale.

Given the topography of the site, when viewed from the streetscape, the extent of the dwelling is reduced, being concealed below street level. As a result, the dwelling presents a sense of low scale development to the streetscape.

The reduced front setback does not result in visual dominance nor results in any direct visual impact on the streetscape.

Accordingly, variation to the Built Form Control is supported under Clause 20 of WLEP 2000.

Side Boundary Envelope and Side Setback – Lot 2 dwelling

Required: The site is subject to the Side Boundary Envelope Control of measure 4.0m above natural ground level at any point, with inward projecting planes at 45degrees and the Side Building Setback Control of 900mm.

Proposed: The proposed dwelling on Lot 2 results in breaches to the side boundary envelope on both side (northern and southern) elevations.

Response: In assessing this non-compliant element of the proposal, the merit of the proposal is considered below:

The dwelling on Lot 2 is considered to have a sympathetic response to the natural features on the site, specifically the rock outcrop located below the dwelling. As a result of raising the dwelling to ensure the retention of the rock outcrop, the dwelling has a reduced building envelope. Notwithstanding, it is considered that the extent of the non-compliance does not directly contribute to an unreasonable sense of building bulk or scale and appropriately steps the building mass down the site.

No unreasonable direct impact to the amenity of the adjoining properties will result from the dwelling.

Accordingly, variation to the Built Form Control is supported under Clause 20 of WLEP 2000.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	<ul style="list-style-type: none">Standard conditions of consent will ensure that the roof finish be within the medium to dark colour range to reduce any likelihood of glare overspill from the proposed metal sheet cladding to the new roof elements. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions
CL39 Local retail centres	NO	No Comment	Not applicable
CL41 Brothels	NO	No Comment	Not applicable
CL42 Construction Sites	YES	<ul style="list-style-type: none">The site provides adequate area for the handling and storage of building materials, and will not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment.Conditions of consent would adequately address the construction requirements associated with the building works proposed on the site. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions
CL43 Noise	YES	<ul style="list-style-type: none">The proposed development provides a residential land use which is consistent with the immediate locality.The construction of two new dwellings will not	YES

General Principles	Applies	Comments	Complies
		<p>unreasonably intensify the ongoing noise emissions emanating from the residential use of the site.</p> <ul style="list-style-type: none"> It is considered that there is sufficient separation or approximately 12.0m between the rear balcony of both proposed dwellings and the adjoining dwellings. In this regard, there will be no direct unreasonable noise impact to the adjoining properties. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	
CL44 Pollutants	NO	No Comment	Not applicable
CL45 Hazardous Uses	NO	No Comment	Not applicable
CL46 Radiation Emission Levels	NO	No Comment	Not applicable
CL47 Flood Affected Land	NO	No Comment	Not applicable
CL48 Potentially Contaminated Land	YES	<ul style="list-style-type: none"> The site has historically been used for residential purposes. Based on both a site inspection and desktop investigation into the site's land use history and upon the basis of information available to Council at the time of assessment, there is no evidence to suggest that the site is contaminated and that the subject site is suitable for the proposed land use. <p>Accordingly, no further consideration of the merit of the proposal is required.</p>	YES
CL49 Remediation of Contaminated Land	NO	No Comment	Not applicable
CL49a Acid Sulfate Soils	NO	No Comment	Not applicable
CL50 Safety & Security	YES	<ul style="list-style-type: none"> The proposed dwellings on both Lots 1 and 2 orientate windows and doors to face the street-front elevation, allowing opportunity for passive casual surveillance to the Sorlie Road streetscape. When viewed from the front boundary, the main entry to both dwellings is oriented in a position that is visible from the streetscape. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL51 Front Fences and Walls	NO	No Comment	Not applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	No Comment	Not applicable
CL53 Signs	NO	No Comment	Not applicable
CL54 Provision and Location of Utility Services	YES	<ul style="list-style-type: none"> The subject site currently comprises one detached residential dwelling. Under the DA2007/0924, approval was granted by the NSW Land and Environment Court for the upgrading of the existing driveway to suit the needs of the additional development on the site. 	YES, subject to conditions

General Principles	Applies	Comments	Complies
		<ul style="list-style-type: none"> The construction of two new dwellings will necessitate individual connection to utility services and is addressed by way of condition of consent. <p>Accordingly, the proposal satisfies this General Principle.</p>	
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	Not applicable
CL56 Retaining Unique Environmental Features on Site	YES	<ul style="list-style-type: none"> The site contains a number of unique environmental features with the most significant being a large rock outcrop located in the centre of Lot 2. Under LEC10876/2008 consent which was approved on 28/11/2008, conditions were imposed to ensure the retention of the rock outcrop on Lot 2. The proposed dwelling employs a design that is sympathetic to the environmental features and does not result in any direct impact. Notwithstanding, it is recommended that a condition of consent be imposed to ensure the ongoing protection of the rock outcrop during construction works. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions
CL57 Development on Sloping Land	YES	<ul style="list-style-type: none"> The proposed dwelling on Lot 2 results in non-compliance with the side boundary envelope and building height development standards. The design of the dwelling is the direct result of providing a raised building platform to ensure the retention of the rock outcrop below. Both dwellings on Lots 1 and 2 provide visual interest and relief by articulating the built form, stepping the mass of the dwellings down the site. In this regard, it is considered that the dwellings integrate with the topography of the site. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL58 Protection of Existing Flora	YES	<ul style="list-style-type: none"> The proposed dwellings on Lots 1 and 2 are predominately located in areas on the site that are cleared of significant vegetation. The dwelling on Lot 2 necessitates the removal of five (5) trees. Council's Landscape Officer raised no objections to the removal of the trees, subject to the imposition of conditions of consent to ensure the retention and protection of the remaining trees on the site. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions.
CL59 Koala Habitat Protection	NO	No Comment	Not applicable
CL60 Watercourses & Aquatic Habitats	YES	<ul style="list-style-type: none"> The topography of the site lends itself to having a natural watercourse running along the western side elevation of the site during large volumes of rainfall. Notwithstanding, the dwelling on Lot 2 is designed to be elevated from the natural ground level towards the 	YES

General Principles	Applies	Comments	Complies
		<p>rear of the dwelling. In this regard, there will be no substantial alteration to the watercourse.</p> <ul style="list-style-type: none"> The proposed development of Lot 2 includes the provision of an onsite stormwater detention system. Combined with the numerically complying provision of landscaped open space which will allow for the infiltration of stormwater, it is considered that there will be no significant impact to the watercourse. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	
CL61 Views	YES	<ul style="list-style-type: none"> A visual inspection of the subject site did not reveal any significant view corridors obtained from, or across the subject site. <p>In this regard, consideration was given to <i>Tenacity Consulting v Warringah Council [2004] NSW LEC 140</i>. Accordingly, no further consideration of the merit of the proposal is required and that a reasonable sharing of views is maintained.</p>	YES
CL62 Access to sunlight	YES	<ul style="list-style-type: none"> The introduction of new overshadowing to the adjoining properties, compared with the shadows cast from the existing single storey dwelling on the approved Lot 3, retains a reasonable and equitable level of sunlight to both Lots 1 and 2 and the adjoining properties with no less than 2 hours of sunlight between 9am and 3pm on 21st June. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL63 Landscaped Open Space	YES	<ul style="list-style-type: none"> The areas identified as landscaped open space are adequate in dimension for the further establishment of landscape plantings that are of a scale and density commensurate with the building height, bulk and scale of the proposed dwelling and contributes to the landscaped setting of the established streetscape, allowing for the accommodation of appropriate outdoor recreational needs of the occupants and service functions, including the provision for clothes drying, and allow for the natural infiltration of stormwater. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL63A Rear Building Setback	YES	<ul style="list-style-type: none"> The works provide numerical compliance with the development standard of 6.0m, providing a rear building setback of approximately 12.4m to Lot 1 and 12m to Lot 2. In this regard, it is considered that the dwellings satisfactorily maintain a sense of openness within the rear yard and provides adequate opportunities to maintain visual privacy between dwellings and adequate area for appropriate private open spaces to be established. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL64 Private open space	YES	<ul style="list-style-type: none"> Both dwellings provide a significantly sized deck towards the rear of the dwellings. <p>Lot 1 provides a private open space of approximately 65.9sqm.</p> <p>Lot 2 provides a private open space of approximately</p>	YES

General Principles	Applies	Comments	Complies
		<p>66.1sqm.</p> <p>Both areas of private open space are set apart for private use, are directly accessible from the living area and receive not less than 2 hours of sunlight between 9am and 3pm on 21st June.</p> <ul style="list-style-type: none"> These areas provide adequate space for service facilities such as clothes drying, and capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation, and children's play. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	
CL65 Privacy	YES	<ul style="list-style-type: none"> The dwelling on Lot 2 incorporates design features to ensure visual privacy is maintained between dwellings. The dwelling on Lot 1 provides opportunities for unreasonable overlooking given the elevated height of the rear deck and the setback of 800mm to the boundary. In this regard, it is recommended that a condition of consent be imposed to increase the setback of the deck to a minimum of 1.5m from the side boundary and provision of landscape plantings, providing visual screening to enhance privacy. The windows of both dwellings are oriented in a position that does not allow for a direct line of sight into the private open spaces or habitable portions of the adjoining dwellings. Similarly, the deck serving the dwelling on Lot 2 incorporates a privacy screen that runs the full length of the deck, providing visual privacy between the deck and the adjoining swimming pool. With the imposition of conditions of consent, it is considered that there are no significant opportunities for unreasonable overlooking to the adjoining dwellings, at the same time, affording an appropriate level of visual privacy to the occupants of the proposed dwellings. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions
CL66 Building bulk	YES	<ul style="list-style-type: none"> The design of the dwellings on Lots 1 and 2 incorporates an articulated built form, stepping the mass of the dwelling down the site. In this regard, the dwellings are considered to integrate with the site topography and do not result in any visually dominating element nor create a sense of excessive building bulk. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL67 Roofs	YES	<ul style="list-style-type: none"> It is considered that the roof form to both dwellings compliment the local skyline and provides visual interest by articulating elements, integrating with the architectural design of the dwellings and with the roof forms of the adjoining dwellings. <p>Accordingly, the proposal satisfies this General Principle.</p>	YES
CL68 Conservation of Energy and Water	YES	<ul style="list-style-type: none"> The imposition of a condition of consent will ensure the commitments made on the BASIX certificate are 	YES, subject to

General Principles	Applies	Comments	Complies
		implemented in the construction of the building works. Accordingly, the proposal is considered to satisfy this General Principle.	conditions.
CL69 Accessibility – Public and Semi-Public Buildings	NO	No Comment	Not applicable
CL70 Site facilities	YES	<ul style="list-style-type: none"> The site contains adequate space for general waste and recycling storage and open air clothes drying facilities which will be / are suitably screened from the street and is therefore considered acceptable in this regard. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL71 Parking facilities (visual impact)	YES	<ul style="list-style-type: none"> The proposed parking facilities serving both Lots 1 and 2 are sited and designed to integrate into the front elevation of the dwellings. Given the steep topography of the site, the parking facilities are concealed from view and will not have a visual impact on the streetscape. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL72 Traffic access & safety	YES	<ul style="list-style-type: none"> The upgrade of the existing vehicle crossing and driveway was approved by the Land and Environment Court [LEC10876/2008]. These upgrade works were required to ensure the driveway would adequately serve the increased demand from the additional allotments. Accordingly, access to the site is considered satisfactory to suit the increased demand as a result of the two new dwellings. Individual access to Lots 1 and 2 have been considered by Council's Development Engineers and considered satisfactory. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES
CL73 On-site Loading and Unloading	NO	No Comment	Not applicable
CL74 Provision of Carparking	YES	<ul style="list-style-type: none"> Both dwellings incorporate a double garage into the façade, with direct access to the internal driveway. Accordingly, a total of two (2) car spaces are provided to each dwelling. <p>Accordingly, the proposed development is considered to satisfy the parking requirements of Schedule 17 of Warringah LEP 2000 and this General Principle.</p>	YES
CL75 Design of Carparking Areas	YES	<ul style="list-style-type: none"> The proposed works have been designed to provide safe manoeuvring opportunities for vehicles on-site, providing direct street access to the local road network. The garages associated with the dwellings on both Lots 1 and 2 have satisfactory internal dimensions, providing a functional enclosed area for parking. <p>Accordingly, the proposal is considered to satisfy the intent of this General Principle.</p>	YES

General Principles	Applies	Comments	Complies
CL76 Management of Stormwater	YES	<ul style="list-style-type: none"> The application has been assessed by Council's Development Engineers and their recommendations incorporated in the consent conditions. (See further discussion under Referrals in this report.) <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions.
CL77 Landfill	NO	No Comment	No Comment
CL78 Erosion & Sedimentation	YES	<ul style="list-style-type: none"> Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site will be imposed should this application be recommended for approval. <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions.
CL79 Heritage Control	NO	No Comment	Not applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	Not applicable
CL81 Notice to Heritage Council	NO	No Comment	Not applicable
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	Not applicable
CL83 Development of Known or Potential Archaeological Sites	NO	No Comment	Not applicable

SCHEDULES

A detailed assessment with regard to the provisions of the relevant Schedules of Warringah Local Environmental Plan 2000 is as follows:

Schedule 8 – Site Analysis

A Site Analysis plan was submitted as part of this application and is considered satisfactory in addressing the requirements of this Schedule.

Schedule 17 - Carparking Provision

See assessment under Clause 74 of the General Principles of this report which demonstrates the proposal's ability to satisfy the requirements of this Schedule.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no Draft Environmental Planning Instruments applicable to the subject site at the time of assessment.



POLICY CONTROLS

Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

Section 94A Contributions are applicable to this development as the application was lodged on the 03/02/2009 and the estimated cost of works is \$700,000.00, which is above the minimum threshold.

The following table identifies the monetary contributions applicable and a condition of consent imposed accordingly in the Notice of Determination should this application be recommended for approval:

Warringah Section 94A Development Contributions Plan			
Contribution based on total development cost of		\$ 700,000.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
S94A Levy	0.95%	\$6,650.00	RAMS
S94A Planning and Administration	0.05%	\$350.00	RAMS
Total	1.0%	\$7,000.00	

OTHER MATTERS FOR CONSIDERATION

There are no other matters for consideration that are relevant in the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79(C) of the Environmental Planning and Assessment Act, 1979, the relevant Environmental Planning Instruments including Warringah Local Environmental Plan 2000, State Environmental Planning Policy No.55, State Environmental Planning Policy – Infrastructure, State Environmental Planning Policy – BASIX and the relevant codes and policies of Council.

The proposed dwellings are considered to satisfy the Desired Future Character of this locality given the dwelling's positive contribution to the streetscape, through presenting as single storey dwellings, providing a consistent landscaped setting, visual pattern and predominant scale.

The proposed dwelling on Lot 1 results in non-compliance with the Side Setback Built Form Control and the following condition is recommended for imposition:

Setback to deck

The deck serving the dwelling on Lot 1, (being the allotment comprising the easternmost portion of the existing site) shall provide a minimum side setback of 1500mm to create a landscaped strip.

The landscaped strip shall be planted out with suitable landscape plantings, capable of achieving a minimum height of 2.0m and shall be provided for the length of the deck.

Details demonstrating compliance shall be submitted to the satisfaction of the Certifying Authority, prior to the issue of any Construction Certificate.

Reason: *To ensure visual privacy is maintained between dwellings.*

The dwelling on Lot 2 results in non-compliance with the Building Height (Ceiling Height), Front Setback and Side Boundary Envelope Built Form Controls (development standards), in accordance with Clause 20 (1) of Warringah Local Environmental Plan 2000, consent to the non-compliances

is supported. Support to such variation is given, as the proposal is considered to satisfy Clause 20(1) of the Plan, the Desired Future Character Statement and the relevant General Principles.

The application was notified in accordance with the Environmental Planning and Assessment Regulation 2000, Warringah Local Environmental Plan 2000 (WLEP 2000) and Warringah Development Control Plan by letter dated 14/02/2009, to seventeen (17) adjoining property owners and occupiers.

The issues raised in the submissions received have been considered. Together with the imposition of standard conditions, the merit assessment under the General Principles demonstrates that the proposal is satisfactory and does not warrant further amendment to the design of the proposal or warrant the refusal of the application.

The following special conditions are recommended for imposition in response to issues arising from the assessment of this application:

Damage to Rock Outcrop

Should any part of the rock outcrop (as identified on Lot 2 for retention) be damaged as a result of the construction works, all works are to cease and written notification of the damage provided to Council. Failure to comply with the provisions of this condition will result in the Council taking further action, including legal proceedings if necessary.

Reason: *To ensure the protection of unique environmental features.*

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

- A)** That Council as the consent authority, grant consent to Development Application No: DA2009/0118 for two new dwellings, at Lot 201, in DP 814620, 45 Sorlie Road subject to the conditions contained as printed below.
- B)** That pursuant to Section 95(C) of the Environmental Planning 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 is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Number	Revision	Titled	Prepared by	Dated
Lot 1 1 of 1	A	Landscape Plan	Matt Fearn	30/01/2009
Lot 1 1 of 7	A	Ground Plan / Landscaped Area	Matt Fearn	30/01/2009
Lot 1 2 of 7	A	First Floor Plan	Matt Fearn	30/01/2009
Lot 1 3 of 7	A	Roof Plan	Matt Fearn	30/01/2009
Lot 1 4 of 7	A	Elevations	Matt Fearn	30/01/2009
Lot 1 5 of 7	A	Elevations	Matt Fearn	30/01/2009
Lot 1 6 of 7	A	Sections	Matt Fearn	30/01/2009
Lot 2 1 of 7	A	Ground Plan / Landscaped Area	Matt Fearn	30/01/2009
Lot 2 2 of 7	A	First Floor Plan	Matt Fearn	30/01/2009
Lot 2 3 of 7	A	Roof Plan	Matt Fearn	30/01/2009
Lot 2 4 of 7	A	Elevations	Matt Fearn	30/01/2009
Lot 2 5 of 7	A	Elevations	Matt Fearn	30/01/2009
Lot 2 6 of 7	A	Sections	Matt Fearn	30/01/2009
Lot 2 1 of 1	A	Landscape Plan	Matt Fearn	30/01/2009

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

Note: Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

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

2. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason: Prescribed - Statutory.

3. Approved Stormwater Plan

The stormwater drainage works for lot 1 are to be generally in accordance with the drainage plan submitted by T. J. Taylor Consultants Pty Limited, drawing number 31607-4/A dated April 2009.

Reason: To ensure appropriate provision for stormwater disposal arising from the development.

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

4. Setback to deck

The deck serving the dwelling on Lot 1, (being the allotment comprising the easternmost portion of the existing site) shall provide a minimum side setback of 1500mm to create a landscaped strip.

The landscaped strip shall be planted out with suitable landscape plantings, capable of achieving a minimum height of 2.0m and shall be provided for the length of the deck.

Details demonstrating compliance shall be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Reason: *To ensure visual privacy is maintained between dwellings.*

5. Development/Construction Security Bond

A bond (determined from cost of works) of \$2,000.00 must be deposited with Council and an inspection fee paid of \$200 prior to the issue of any Construction Certificate. This bond is 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.

Reason: *To ensure adequate protection to Council infrastructure.*

6. Provision of Electricity

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying Authority that notification has been received from Energy Australia of electricity supply requirements for the development.

Reason: *To ensure that services have been provided as required by this Consent.*

7. Sediment Control

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including plans and specifications shall be submitted to Council / Accredited Certifier accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Soils and Construction Manual Volume 1 - Managing Urban Stormwater, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

- (a) All details of drainage to protect and drain the site during the construction processes;
- (b) All sediment control devices, barriers and the like;
- (c) Sedimentation tanks, ponds or the like;
- (d) Covering materials and methods;
- (e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the Construction Certificate and approved by the Council / Accredited Certifier prior to issuing of the Construction Certificate.

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

8. Sydney Water Approval

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

Please refer to the web site www.sydneywater.com.au <http://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.

The Certifying Authority must ensure that a Quick Check agent/ Sydney Water has appropriately stamped the plans prior to the issue of any Construction Certificate.

Reason: *To ensure compliance with the statutory requirements of Sydney Water.*

9. BASIX Certification

The development shall fully comply with the schedule of BASIX Commitments specified within the BASIX Certificate. Plans and specifications that reflect those commitments identified on the BASIX Certificate to be satisfied prior to the issue of the Construction Certificate, shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: *To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004).*

10. Stormwater Disposal for Lot 2

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 interallotment drainage easement that benefits the site.

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

11. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate. 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.

Reason: *Prescribed - Statutory.*

12. Roofing Materials - Reflectivity

The metal roof shall be medium to dark in colour in order to minimise solar reflections to neighbouring properties. The metal roof shall not be of light colours such as off white, cream, silver or light grey colours. Details 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 roofing materials does*

not occur as a result of the development.

13. Section 94A Contribution

\$7,000.00 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

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). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan			
Contribution based on total development cost of		\$ 700,000.00	
Contribution - all parts	Levy Rate	Contribution Payable	Council Code
Warringah			
S94A Levy	0.95%	\$6,650.00	RAMS
S94A Planning and Administration	0.05%	\$350.00	RAMS
Total	1.0%	\$7,000.00	

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.*

14. Damage to Rock Outcrop

Should any part of the rock outcrop (as identified on Lot 2 for retention) be damaged as a result of the construction works, all works are to cease and written notification of the damage provided to Council. Failure to comply with the provisions of this condition will result in the Council taking further action, including legal proceedings if necessary.

Reason: *To ensure the protection of unique environmental features.*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Identification and Protection of Trees

- (1) All trees identified for retention/protection are to be clearly identified by signage as protected trees.
- (2) The primary root zone areas of the trees identified for protection are to be protected by fencing during the entire construction period except for specific areas directly to achieve construction works.
- (3) The tree protection fence shall be constructed of galvanised pipe at 2.4 m spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres. The tree protection fencing is to be installed and fully operational prior to any demolition or construction works commencing on the site.

Reason: *To protect trees to be retained.*

16. Home Building Act

- (1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
 - (a) in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number, and
 - (ii) is satisfied that the licensee has complied with the requirements of the Home Building Act, or
 - (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was gazetted, that amount was \$3,000. As those regulations are amended from time to time, that amount may vary.

- (2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
- (3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is 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.

Reason: *Prescribed - Statutory.*

17. Notice of Commencement

At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with Section 81A of the Environmental Planning and Assessment Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

Reason: *Legislative requirement for the naming of the PCA.*

18. Site Sign

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited;

- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- (2) Any such sign must be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

Reason: *Statutory requirement.*

19. Toilets

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
- (a) must be a standard flushing toilet, and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (4) In this clause:

accredited sewage management facility means a sewage management facility to which Division 4 Sub-division 5 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in of the Regulation.

approved by the Council means the subject of an approval in force under the Local Government (General) Regulation 2005.

public sewer has the same meaning as it has in the Local Government (General) Regulation 2005.

sewage management facility has the same meaning as it has in the Local Government (General) Regulation 2005.

Reason: *To ensure adequate facilities are provided for workers on the site.*

20. 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.*

21. Road Opening Permit

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

Reason: *Statutory requirement (Roads Act 1993).*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22. Applicant's Cost of Work on Council Property

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

Reason: *To ensure the proper management of public land.*

23. Protection of Trees During Works

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Details of required protection methods shall be provided to the Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

Reason: *To ensure compliance with the requirement to retain significant planting on the site.*

24. Protection of Trees

All trees which are not listed as exempt or noxious in Warringah that are not indicated for removal on Landscape Plans Lot 1 and Lot 2 Drawing Nos 1 and 1 prepared by Matt Fearn dated 2009.1.30 are to be protected.

Reason: *Protection of existing environmental infrastructure and community assets.*

25. Trees

- (1) All approved excavation carried out within the specified radius of the Trunk/Trunks of the following tree/trees shall be hand dug without severing any roots greater than 50mm:

Plant species	Radius from trunk
All protected Trees	3m

Reason: Protection of trees.

- (2) Tree roots of 50mm or greater in diameter encountered during excavation, shall only be cut following consultation with a qualified Arborist. Tree roots between 10mm and 50mm in diameter, severed during excavation, shall be cut cleanly by hand.

Reason: Protection of trees.

- (3) The following guidelines are to be complied with at all times:
- (a) The applicant shall ensure that at all times during the development period no activities, storage or disposal of materials shall take place beneath the canopy of any tree covered under Council's Tree Preservation Order unless specifically approved by Council.
 - (b) Trees marked for retention are not to be damaged or used to display signage, or as fence or cable supports for any reason.
 - (c) Siting of sheds, stockpiles and vehicle parking should be sited so that they are remote from trees.
 - (d) Site personnel are to be made aware of tree requirements and protective measures. Paving materials placed within the dripline of any tree should be of a porous material.

Reason: Protection of trees.

- (4) 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.

The presence of any of these symptoms or signs may be considered by Council as a breach of the Conditions of Development Approval.

Reason: Protection of trees.

- (5) All trees on neighbouring properties are to be protected from adverse impacts caused by the works. Any excavations or changes of level occurring within the canopy of trees on neighbouring properties shall only be undertaken following consultation by a suitably qualified Arborist.

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.*

26. Tree Pruning

Any tree pruning necessary for construction shall be carried out under the supervision of an appropriately qualified Arborist and be in accordance with the relevant Australian Standards.

Note: The following Australian Standard applied at the time of determination:

Australian Standard AS 4373.2007 - Pruning of Amenity Trees.

Reason: *To ensure protection and longevity of existing trees.*

27. Installation and Maintenance of Sediment Control

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Soils and Construction Manual Volume 1 - Managing Urban Stormwater. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

28. 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.*

29. Benchmarks

All permanent survey markers shall be retained, undamaged, and not relocated.

Reason: *Protection of existing environmental infrastructure and community assets.*

30. Bush rock

No bush rock is to be removed or damaged unless necessary for approved road construction, fence construction, sewage infrastructure installation or building envelope construction.

Reason: *To ensure bushland management.*

31. Construction Hours

Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 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).

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk.

Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

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

32. Excavation / Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason: *To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage.*

33. Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This condition shall be complied with during demolition and building work.

Reason: *To ensure public safety and amenity on public land.*

34. Plans on Site

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Certifying Authority.

Reason: *To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance.*

35. Removal of All Temporary Structures/Material and Construction Rubbish

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

Reason: To ensure bushland management

36. Dust emission and air quality

Materials must not be burnt on site.

Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the Landcom's Managing Urban Stormwater: Soils and Construction (The 'Blue Book'). Odour suppression measures must be carried out so as to prevent nuisance occurring at neighbouring properties.

Reason: To ensure residential amenity is maintained in the immediate vicinity.

37. Sediment and Erosion Control Signage

A durable sign, which is available from Council, shall be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

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

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

38. BASIX Compliance Certification

Prior to the issue of an Interim/Final Occupation Certificate, all the selected BASIX commitments as detailed in the BASIX Certificate, must be completed.

Reason: To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004).

39. House / Building Number

Prior to the issue of an Interim/Final Occupation Certificate, the house/building number is to be affixed to the building.

Reason: Proper identification of buildings.

40. Occupation Certificate Required

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

Note: In issuing an Interim / Final Occupation Certificate the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and

Assessment Act 1979 have been satisfied.

Reason: *To ensure compliance with the provisions of the Environmental Planning and Assessment Act.*

41. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineer's certification must be included with the above submission. Additionally a copy of the Component/Compliance Certificate issued by Council or an Accredited Certifier in Civil Works stating that the works are in accordance with the approved plans shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: *To create encumbrances on the land.*

42. Creation of Positive Covenant and Restriction as to User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as to user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall to be submitted to Warringah Council for authorisation. A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands" prior to issue of the Interim/Final Occupation Certificate.

Reason: *To identify encumbrances on land.*

43. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance/Component Certificate shall be issued by Council or an Accredited Certifier in Civil Works stating that the works are in accordance with the approved plans prior to the issue of an Interim/Final Occupation Certificate.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: *To ensure stormwater disposal is constructed to Council's satisfaction.*

44. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgment with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: *To ensure ongoing maintenance of the on-site stormwater detention system.*

45. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted to Council prior to the issue of an Interim/Final Occupation Certificate.

Reason: *To identify encumbrances on land.*

46. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land prior to the issue of an Interim/Final Occupation Certificate. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgment with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Reason: *To ensure no modification to the on-site stormwater detention structure without Council's approval.*

47. Stormwater Disposal Certification

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified professional. The certification is to be submitted to the Principal Certifying Authority prior to the issue of an Interim/Final Occupation Certificate.

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

- Australian/New Zealand Standard AS/NZS 3500.3:2003 - Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 - Plumbing and drainage - Stormwater drainage
- National Plumbing and Drainage Code.

Reason: *To ensure appropriate provision for disposal of stormwater arising from the development.*



