

3.4**89 Aubreen Street, Collaroy Plateau - Alterations and Additions to an Existing Dwelling including an Upper Storey Addition****SUPPLEMENTARY DEVELOPMENT APPLICATION ASSESSMENT REPORT**

Assessment Officer:	Shaylin Moodliar
Address / Property Description:	Lot 3 Sec Z in DP 33000, No.89 Aubreen Street Collaroy Plateau
Proposal:	Alterations and additions to an existing dwelling including an upper storey addition.
Development Application No:	DA2009/0085
Plans Reference:	DRWG No. 280920 Issue B (dated 10 September 2009)
Applicant:	Graham Andrew Mackay, Sharyn Jane Mackay
Owner:	Graham Andrew Mackay, Sharyn Jane Mackay
Application Lodged:	27 January 2009
Amended Plans:	Yes. Following recommendations put forward by the Application Determination Panel (ADP) on 2 April 2009, amended plans were received by Council on 14 September 2009.
Locality:	D4 Collaroy Plateau
Category:	Category 1 - Housing
Draft WLEP 2009 Permissible or Prohibited Land use:	Permissible Land Use
Clause 20 Variations:	YES (northern side boundary envelope)
Land and Environment Court Action:	NO
Referred to WDAP:	NO
Referred to ADP:	YES (more than two unresolved objections and required to be referred back to ADP as per resolution of 2 April 2009)

PURPOSE OF THIS REPORT

The purpose of this report is to refer this matter back to Application Determination Panel (ADP) as the matters raised by the Panel that resulted in the item being deferred at its meeting on 2 April 2009 have been addressed.

HISTORY AND BACKGROUND

Development Application DA2009/0085 for alterations and additions to an existing dwelling was considered by the Application Determination Panel (ADP) at its meeting on 2 April 2009 as there were six (6) unresolved objections. The recommendation of the Panel was that the matter be deferred as follows:

PROCEEDINGS IN BRIEF

"The Panel agreed to defer this application and requested a meeting to be arranged with the applicant to submit amended plans to enable a modified design of this application. Furthermore, the Panel did not support the two (2) Clause 20 variations for Landscaping and Side Setback Built Form Controls and believed there were alternate design opportunities that would not need clause 20 variations that could be supported. The Panel resolved to defer this application and requested a meeting to be arranged with the applicant to address the Panel's issues and the matter to be reported back to the Panel for further consideration."

DECISION

"That this application to be deferred to enable the applicant to submit amended plans to address the issues raised by the Panel and to be referred back to the Panel for further consideration."

RESPONSE TO ADP

The applicant submitted additional information, including amended plans and a written statement on 14 September 2009. The plans have been amended in accordance with the above decision and the matter is referred back to the ADP for their consideration.

In detail, the applicant has provided the following amendments to the proposed development:

1. Demolition of the rear detached garage, awning, shed and a 14 m² concrete area adjoining the southern side boundary to accommodate a new landscaped open space.
2. The proposed first floor addition has been modified so that it is 9.1m from the existing front building line and 8.8m from the rear boundary.
3. The roof over the first floor deck is removed.
4. The carport roof extension over the existing front hard car standing area is reduced to cover the existing front porch.
5. Fixed awning over the west-facing louvered kitchen window on the first floor.

LOCALITY PLAN (not to scale)



Subject Site:

Lot 3 Sec Z in DP 33000, No.89 Aubreen Street, Collaroy Plateau

Notified Residences: 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 **10** adjoining land owners and occupiers for a period of 14 days commencing on 02/02/2009 and being finalised on 17/02/2009. A total of six (6) submissions were received as a result of this notification process.

Amended plans were received by Council on 3 June 2009, and as a result, the application was re-notified to the **10** adjoining land owners and occupiers for a period of 14 days commencing on 12/06/2009 and being finalised on 29/06/2009. A total of seven (7) submissions were received as a result of this notification process.

Further amended plans were received by Council on 14 September 2009, and as a result, the application was re-notified to the **10** adjoining land owners and occupiers for a period of 14 days commencing on 16/09/2009 and being finalised on 9/10/2009. A total of seven (7) submissions were received as a result of this notification process.

SITE PHOTOS



Figure 1. Existing front view of 89 Aubreen Street. Photo taken 3 March 2009.



Figure 2. Existing view of carport structure. Photo taken 3 March 2009.

RELEVANT BACKGROUND

A previous Development Application (DA2001/1841) for the alterations and additions to an existing dwelling, including an upper storey addition was lodged on 17 December 2001 with Council and subsequently refused on 2 July 2002.

On 27 January 2009 the Council received the Development Application (DA2009/0085) for the alterations and additions to an existing dwelling, including an upper storey addition, which is the subject of this report.

On 2 April 2009 the application was referred to Application Determination Panel (ADP) with recommendation for approval. The recommendation of the Panel was that the matter be deferred as follows:

PROCEEDINGS IN BRIEF

“The Panel agreed to defer this application and requested a meeting to be arranged with the applicant to submit amended plans to enable a modified design of this application. Furthermore, the Panel did not support the two (2) Clause 20 variations for Landscaping and Side Setback Built Form Controls and believed there were alternate design opportunities that would not need clause 20 variations that could be supported. The Panel resolved to defer this application and requested a meeting to be arranged with the applicant to address the Panel's issues and the matter to be reported back to the Panel for further consideration.”

DECISION

“That this application to be deferred to enable the applicant to submit amended plans to address the issues raised by the Panel and to be referred back to the Panel for further consideration.”

On 3 June 2009 amended plans were submitted by the applicant in accordance with the Panel's resolution. After initial assessment of the revised plans, further consultation with the applicant and Council concluded that additional amendments to the design could be made.

On 14 September 2009 amended plans were submitted by the applicant in accordance with the Panel's resolution. After initial assessment of the revised plans, the amended plans were notified to adjoining and nearby properties

AMENDMENTS TO THE PLAN

The Council received amended plans from the applicant on 14 September 2009 in response to the Panel's objections with regard to the submissions from the adjoining and nearby properties. The amendments include the following changes to the design of the original application:

- Demolition of the rear detached garage, awning, shed and a 14 m² concrete area adjoining the southern side boundary to accommodate a new landscaped open space.
- The proposed first floor addition has been modified so that it is 9.1m from the existing front building line and 8.8m from the rear boundary.
- The roof over the first floor deck is removed.
- The carport roof extension over the existing front hard car standing area is reduced to cover the existing front porch.
- Fixed awning over the west-facing louvered kitchen window on the first floor.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) Local Government Act 1993
- d) SEPP No. 55 – Remediation of Land
- e) SEPP BASIX
- f) SEPP (Infrastructure) 2007
- g) Warringah Local Environment Plan 2000
- h) Section 94A Development Contributions Plan
- i) Warringah Development Control Plan
- j) Draft Environmental Planning Instruments

REFERRALS

External Referrals

Energy Australia reviewed the proposal and raised no objections to the proposal subject to conditions which have incorporated into the draft consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The initial application was notified between 2 February 2009 and 17 February 2009 for a notification period of 14 days to 10 adjoining and nearby properties. Following the decision made by Council's ADP to defer the recommendation for approval and request amended plans, the application was re-notified between 16 September 2009 and 9 October 2009 for a notification period of 14 days to 10 adjoining and nearby properties.

A total of seven (7) submissions were received in response to the application. Submissions were received from the following:

Submission Received	Address
Eric and Margaret Christensen	No.82 Idaline Street, Collaroy Plateau
John and Anne Catlin	No.84 Idaline Street, Collaroy Plateau
Walter and Donna Adlam	No.86 Idaline Street, Collaroy Plateau
John Mumford	No.83 Aubreen Street, Collaroy Plateau
John Mumford	No.85 Aubreen Street, Collaroy Plateau
Eng Chuan Lim	No.87 Aubreen Street, Collaroy Plateau
John and Kelly L'Estrange	No.93 Aubreen Street, Collaroy Plateau

The matters raised within the submissions are addressed as follows:

- **SITE OVERDEVELOPMENT AND BULK AND SCALE**

Developments along Aubreen Street are predominantly characterised by a unique mix of traditional brick style housing interspersed with modern dwellings of multiple storey heights and varying roof forms. The proposed development will not significantly increase the visual bulk of the streetscape along Aubreen Street as the proposed development is of a scale and bulk that is consistent with structures on adjoining and nearby land that will not visually dominate the streetscape.

The proposed development will result in an upper storey addition to the existing dwelling with a maximum height above natural ground level of approximately 7.57metres, which complies with Council's Building Height Built Form Control. The submissions raised concern over a proposed development not stepping back to the front of the building footprint. This matter was considered and given that the land is gently sloping, the amended proposal is of a design and character similar to that of the adjoining and surrounding properties.

Notwithstanding, the minor building envelope non-compliance, the proposed works is consistent with surrounding properties and is considered to be satisfactory with regard to the Desired Future Character for the locality. Accordingly, the proposal is not considered to cause any unreasonable impact on the surrounding natural or built environments by means of overshadowing, privacy impact, view loss or visual intrusion on the public domain. Accordingly, this issue does not warrant the refusal of the application.

- **VISUAL PRIVACY**

The location of the proposed upper floor addition overlooking the rear yards of Aubreen Street and Idaline Street was considered, and a merit assessment of the proposed development against the intent of Clause 65 (*Privacy*) of WLEP 2000 is considered under the 'General Principles of Development Control' of this report, which demonstrates the suitability of the proposal. Accordingly, this issue does not warrant the refusal of the application.

- **NOISE FROM PROPOSED EAST-FACING FIRST FLOOR DECK**

With regard to Clause 43 *Noise* of the WLEP 2000, the proposed development does not result in noise emission which would unreasonably diminish the amenity of the area. The proposed development will maintain the existing noise generating activities as the proposed works are consistent with its existing residential use. The proposed first floor deck is smaller than rear decks at adjoining properties No. 91 and 93 Aubreen Street. Accordingly, this issue does not warrant the refusal of the application.

- **OVERSHADOWING / LOSS OF SUNLIGHT**

The submission raised concern regarding overshadowing from the proposed development to the adjoining rear yard of No. 87 Aubreen Street. A merit assessment of the proposed development against the intent of Clause 62 (*Access to Sunlight*) of WLEP 2000 is considered under the 'General Principles of Development Control' of this report, which demonstrates the suitability of the proposal as it complies with the provisions of the Clause.

- **NON-COMPLIANCE WITH THE SOUTHERN SIDE SETBACK/CARPORT ON SOUTHERN BOUNDARY**

The original development proposed a breach to the Side Setback on the southern elevation. Amended plans received by Council on 14 September 2009 resolved the non-compliance by deleting it from the proposal. The amended proposal is thus suitable for the subject site. Accordingly, this issue does not warrant the refusal of the application.

- **NON-COMPLIANCE WITH THE LANDSCAPED OPEN SPACE**

The original development proposed a breach to the landscaped open space. Amended plans received by Council on 14 September 2009 resolved the non-compliance by removing the hard surface areas in the rear yard and demolishing the rear structures. The proposed development will increase the existing landscaped open space, by reinstating approximately 105 m² of soft landscaped area to the front and rear yards. The amended proposal is thus suitable for the subject site. Accordingly, this issue does not warrant the refusal of the application.

- **NON-COMPLIANCE WITH THE SIDE BOUNDARY ENVELOPE**

The proposed upper storey addition results in a breach to the northern side boundary envelope. For a detailed discussion including merit assessment and Clause 20 Variation to the Side Boundary Envelope Built Form Control, refer to built form controls section in this report. The non-compliance is supported in this instance as the amended proposal meets the intent of the Desired Future Character of the locality and the General Principles of the WLEP 2000.

- **EXCESSIVE BULK AND SCALE**

The proposal for an upper-storey addition to the existing dwelling is consistent with surrounding dwellings, with respect to Clause 66 (*Building Bulk*) of the WLEP 2000. Notwithstanding the non-complying element of the proposal, being the northern side boundary envelope, assessed on its merits the proposed development complies with the Building Height Control and provides consistency with the existing built form and pattern of development within the Aubreen Street neighbourhood. It must be noted the design of the first floor addition is of modest dimensions when compared to the existing ground level building footprint.

The submissions raised the suggestion that the proposed upper storey be moved an additional 2.17m to the west. This was considered and given that the applicant has amended the proposal to resolve overlooking and view loss issues between adjoining property owners, the suggestion to move the upper storey an additional 2.17 metres to the west will introduce overshadowing concerns to the adjoining southern property and increase the bulk and scale that is both out of character and inconsistent with the Desired Future Character of the locality. The proposal is considered to be consistent with the predominant scale of detached style housing in the locality. The proposal is thus suitable for the subject site. Accordingly, this issue does not warrant the refusal of the application.

- **PRECEDENT – FUTURE DEVELOPMENT ALONG AUBREEN STREET**

The submissions have raised concern regarding the future development of their own properties being hindered by the proposed development of the subject site. The application is assessed on its own merits and any future development applications for properties located within the surrounding area will also be assessed on its own merits with regards to the governing controls. Accordingly, this issue does not warrant the refusal of the application.

- **DECLINE IN VALUE TO ADJOINING PROPERTIES**

Property value is not a consideration under the *Environmental Planning and Assessment Act 1979* when assessing development applications. Each development application is assessed in accordance with the requirements of the relevant planning instruments and statutory laws. The proposed development is permissible within the D4 Collaroy Plateau Locality with Council consent subject to the provisions of Warringah LEP 2000, which the proposed development is considered to be consistent with. Accordingly, this issue does not warrant the refusal of the application.

- **DISCREPANCIES OF THE STATEMENT OF ENVIRONMENTAL EFFECTS (SEE)**

The submission raises the concern of some discrepancies with the SEE prepared for No. 89 Aubreen Street, as it 'hides the true facts of the proposal'. While a SEE is necessary for submitting a Development Application, the information provided for in this document is provided by the applicant and is used in the assessment process, and subsequently, an independent assessment is undertaken by the Council's Development Assessment Officer when assessing the merits of the proposal. Furthermore, it must be noted that the SEE calculations for landscaped open space are prepared by the applicant for the subject site, and further assessment of these calculations are undertaken by Council's Development Assessment Officer. In this instance, the estimated calculations for the landscaped open space (188 m² or approximately 44.5% of the subject site) as shown on the plans and the SEE, were calculated to be slightly under the actual proposed landscaped open space as calculated by the Assessment Officer which is calculated at 202 m² or approximately 48% of subject site. Accordingly, this issue does not warrant the refusal of the application.

- **PART DEMOLITION OF EXISTING STRUCTURES**

The proposed part demolition of the existing structures in preparation of a rear addition to the existing dwelling will be conditioned to maintain surrounding safety and amenity during demolition. Conditions regarding asbestos removal will be imposed in order to protect neighbouring dwellings. Accordingly, this issue does not warrant the refusal of the application.

- **DEVELOPMENT SIMILAR TO PREVIOUS REFUSAL DA2001/1841**

The submissions raised concern over some similarities to the previous development application (DA2001/1841) that the same owners lodged with Warringah Council on 17 December 2001. Following retrieval of the previous refusal file from Council records, it is

considered that the current development application (DA2009/0085) is substantially smaller in scale than the previous proposal that was refused on 2 July 2002. The view loss assessment undertaken in 2002 was undertaken under Clause 61 (Views) whereas under this development application the view loss Planning Principle - *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* is a requirement and has been undertaken. The view loss planning principle is a 4 - step test which provides greater clarification for view loss assessments. Accordingly, this issue does not warrant the refusal of the application.

- **LOSS OF VIEWS**

A detailed discussion has been undertaken in the 'General Principles of Development Control' Clause 61 (Views) section of this report. The proposal has been assessed against the four step view loss planning principle and it is considered that reasonable view sharing is achieved. Currently due to the existing rear setbacks and the undeveloped nature of a number of properties on Aubreen Street, the views over the side boundaries allow for undisturbed long distant views. The amended proposal will allow for the retention of partial ocean views to the north and east. Accordingly, this issue does not warrant the refusal of the application.

- **REAR SETBACK SHOULD REFLECT THE EXISTING REAR SETBACKS OF AUBREEN STREET**

Setbacks in excess of 6m are found along the section of Aubreen Street from No. 83 to No. 93. The existing dwelling house at the subject site currently has a rear setback of 6.2m. The proposal complies with the 6m rear setback with the proposed rear building line of the addition set back 8.8m, (7.6m setback to the rear stair landing area on the ground floor and at first floor level of 8.8m, which both complies with the WLEP 2000. Accordingly, this issue does not warrant the refusal of the application.

- **INACCURATE COST OF WORKS**

The estimated cost of works has been provided and certified by the applicant in accordance with Councils requirements. Accordingly, this issue does not warrant the refusal of the application.

- **COMPLYING DEVELOPMENT**

Schedule 12 of the WLEP 2000 does not apply to the proposed development application. Accordingly, this issue does not warrant the refusal of the application.

- **FIRE RISK**

Concern has been raised in relation to fire risks from the carport extending into the main dwelling roof line. Conditions regarding compliance with the BCA will be imposed in order to protect neighbouring dwellings. Accordingly, this issue does not warrant the refusal of the application.

- **STORMWATER DRAINAGE**

Concern has been raised in relation to stormwater drainage from the proposed development to adjoining and nearby properties. The proposed alterations and additions do not increase the existing building footprint and is satisfactory with regard to Clause 76 (*Management of Stormwater*) of the WLEP 2000. Council's Development Engineer raised no objections subject to the conditions contained within the draft consent. Accordingly, this issue does not warrant the refusal of the application.

• THIRD STOREY/REAR FOUNDATIONS

Concern has been raised that the proposed development will present itself as a three (3) storey dwelling. Although, the building height control applicable to the subject site does not include a maximum storey limit, the proposed design of the built form and landscaping elements respond positively to the constraints of the site, including its narrowness and existing lack of landscaped open space, and allows the development to address the streetscape. The piers supporting the proposed development are no higher than 1.67m above the natural ground level. A finished ceiling height of 2.4m is the normal minimum required for habitable room, therefore, the area below the finished floor level of the new ground floor can not be considered to accommodate a habitable third level. Furthermore, the proposed development complies with 7.2m ceiling height and 8.5m building height Built Form Control. Accordingly, this issue does not warrant the refusal of the application.

MEDIATION

Mediation was not requested for this development application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “WLEP 2000” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	The proposed development has been considered under the Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009).
Section 79C (1) (a)(iii) – Provisions of any development control plan	None applicable to this proposal, except Warringah Development Control Plan, which is addressed in this report.
Section 79C (1) (a)(iia) - Provisions of any Planning Agreement or Draft Planning Agreement	None applicable.
Section 79C (1) (a)(iv) - Provisions of the regulations	Clause 7 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval. Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i> . This matter can be addressed via a condition of consent.
Section 79C (1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the ‘General Principles of Development Control’ in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – The suitability of the site for the development	The site is considered suitable for the type of proposed development.
Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs	All submissions have been addressed within this report under ‘Notification and Submissions’.
Section 79C (1) (e) – The public interest	No matters have arisen that would justify the refusal of the application on the basis of the public interest.

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: Permitted

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:	N/A	N/A	N/A	N/A
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	7.57m	YES	No exception to Development Standard

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

State Environmental Planning Policies (SEPP)

SEPP (Infrastructure) 2007

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; 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.

SEPP No. 55 – Remediation of Land

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 used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP - Building Sustainability Index: BASIX 2004 (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.

Regional Environmental Planning Policies

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

Warringah Local Environmental Plan 2000

Desired Future Character

The subject site is located in the D4 Collaroy Plateau Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

The Collaroy Plateau locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will continue to be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The properties north and east of Edgecliff Boulevard form part of the crests and sideslopes of the Collaroy escarpment. Development in this part of the locality must integrate with the landscape and topography and minimise its visual impact on long distance views of the escarpment. Rock outcrops and indigenous tree canopy will be integrated with new development where possible. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Buildings are not to be erected on areas shown cross-hatched on the map due to the land's steep slope, instability and visual sensitivity.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.

The proposed development is identified as Category 1 (Housing) development, pursuant to Clause 6 of Warringah LEP 2000 and defined as housing.

Notwithstanding, as the proposal involves a variation to the Built Form Controls, Clause 20 of WLEP 2000 requires a higher consistency test of the development against the Desired Future Character Statement (DFC).

Accordingly, it is considered that the proposal is consistent with the DFC for the following reasons:

The amended proposal is substantially the same and does not alter the consistency with the DFC as per the original proposal.



Built Form Controls for Locality D4 Collaroy Plateau

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

Built Form Standard	Required	As viewed by ADP meeting held on 2 April 2009	Proposed	Compliance Comment	Compliance
Building Height Metres	8.5metres	6.37m	7.57m	Complies	YES
Building Height: Natural ground to upper ceiling (metres)	7.2metres	5.4m	6.77m	Complies	YES
Front Setback	6.5metres	11.8m	12.2m	Complies	YES
Housing Density	1per/450 m ²	1per/422.8 m ²	1per/422.8 m ²	Existing and unchanged	YES
Landscaping	40% of site (169 m ²)	33% of site (138 m ²)	48% of site (202.752 m ²)	Complies NOTE: The existing provision for landscaped open space is 22% (or 93 m ²) of the site	YES
Rear Setback	6metres	6.2m	7.6m (rear landing stairs with FFL98.25) 8.8m (main dwelling with FFL98.25) 12.3m (first floor addition with FFL100.93, excluding the first floor deck which has RL100.88)	Complies	YES
Side Boundary Envelope	5metres/45 degrees	5metres/45 degrees	5metres/45 degrees	Southern elevation complies with envelope. Northern elevation proposes minor variations.	NO
Side Setbacks	900mm	North: 950mm South: Nil	North: 950mm (existing and proposed ground floor with FFL98.25 and first floor alterations with FFL100.93) South: 2.8m (ground floor alterations with FFL98.25)	Complies	YES

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:

(i) 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.)

(ii) Desired Future Character of the Locality

The subject site is located within the D4 Collaroy Plateau 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 as it maintains a 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).

(iii) 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:

Side Boundary Envelope

Required: The subject site falls within the D4 Collaroy Plateau Locality and as such is subject to the Side Boundary Envelope Control of 5 metres with inward projecting planes at 45 degrees at the side boundaries.

Proposed: The proposed roof form of the upper storey addition seeks a northern elevation breach of up to 500mm for a length of 6.5 metres.

Response: In assessing this non-compliant element of the proposal, it is necessary to consider the intent of the Side Boundary Envelope control, as assessed below:

Requirement: Ensure that development does not become visually dominant by virtue of its height and bulk

Comment: The WLEP2000 grants concession for building envelope non-compliances to upper storey additions to an existing dwelling. It is acknowledged that the site is constrained by the existing building setbacks of 950mm to the northern side boundary and 2.8 metres to the southern side boundary. The non-compliance is confined to the northern elevation up to 500mm in height. The breach of the upper storey addition is below the maximum 8.5 metre building height control and does not result in any significant element that contributes to an unreasonable sense of visual dominance or building bulk, due to the modest dimensions of the first floor addition and significant front and rear setbacks.

Requirement: Preserve the amenity of surrounding land

Comment: The breach is considered acceptable as it would not have any detrimental effect on the site or its adjoining properties in terms of visual amenity and nor would the design detract from the sense of openness and separation presented by the site. The non-compliance due to the upper

storey addition will result in additional overshadowing to the adjoining dwellings, however does not result in unreasonable overshadowing. Furthermore, subject to conditions, the proposed works will not result in any unreasonable impact to visual privacy, as currently enjoyed by the adjoining occupants.

Requirement: Ensure that development responds to site topography

Comment: The proposed works are contained over the existing building footprint and does not result in any significant alteration to the natural landform. The subject site is predominantly flat, with a minimal fall towards the rear of the site.

Requirement: Provide separation between buildings

Comment: The proposed upper level addition maintains acceptable setbacks to each respective boundary to ensure an adequate level of separation. The proposed upper storey to the existing dwelling retains the existing side setbacks on the ground floor. The non-compliance is considered satisfactory, as these elements maintain a satisfactory sense of openness and separation between dwellings. Accordingly, the dwelling provides adequate separation between buildings.

Requirement: Provide opportunities for landscaping

Comment: The existing provision for landscaping is limited due to the existing structures on site. The existing provision for landscaping is 93sqm (22% of the subject site). However, the proposed provision for landscaping is 202 m² (48% of the subject site) which includes approximately 105 m² of landscaped open space to be re-instated to the rear setback along the rear boundary. Overall the landscaping provision is acceptable given the existing building structure constraints. The development provides greater than the 40% requirement of the WLEP2000 for the site to be landscaped and includes native species and appropriate planting that is commensurate with the overall scale of development. The landscaped open space is commensurate with the proposed built form.

Requirement: Create a sense of openness

Comment: The proposed works are contained within the existing building footprint which currently provides an adequate sense of openness. The proposed upper level maintains the existing side setbacks, however, provides substantial front and rear setbacks in order to minimise the overall building bulk and impact to the streetscape. The proposed works provide adequate provision for landscaped and private open space, and provide adequate separation between dwellings with a definitive visual relief to the built form. As such, there will be no significant cumulative impact to the bulk and scale when viewed from the streetscape, therefore maintaining a sense of openness to the subject site.

Clause 20 Variation – Supported

Having regard to the above, it is considered that the proposal, notwithstanding the numerical variation to the Side Boundary Envelope control for the locality, is still consistent with the Desired Future Character statement for the D4 Collaroy Plateau Locality.

The proposed works are not considered to become visually dominant by virtue of its height and bulk, and preserves the amenity of the surrounding land. In addition, the works are considered to respond to site topography, providing separation between buildings, opportunities for landscaping and maintains a sense of openness. 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:

Clause 43 Noise

Clause 43 states "development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants."

Comment: The proposed development will not result in noise emission, which would unreasonably diminish the amenity of the area and will not result in noise intrusion, which would be unreasonable to surrounding residents as the use as a single dwelling is maintained by the proposal. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 61 Views

Clause 61 states "development is to allow for the reasonable sharing of views."

Comment: It must be noted that the previous Development Application DA2001/1841 was refused on 2 July 2002. This determination was therefore made prior to the planning principle for views *Tenacity Consulting v Warringah Council*. Although, it is not correct to say that in the past development assessments especially prior to the views planning principle did not assess view loss, the planning principle provided by NSW Land and Environment Court, provided more clarification and detail to help in the assessment of view loss when assessing Development Applications.

The following is a view assessment undertaken in accordance with the four (4) step process adopted by Commissioner Roseth in the NSW Land and Environment Court *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*:

a.) Nature of the views to be affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Assessment of potential view loss was conducted on 3rd and 25th March 2009. The subject site is located on No. 89 Aubreen Street, where properties to the south enjoy views north across side and east over rear boundaries.

Specifically, three view loss objections have been received from the following properties:

- 83 Aubreen Street
- 85 Aubreen Street
- 87 Aubreen Street

The existing views to be impacted upon are ocean and headland views. The views from the various properties contain the following:

- 83 Aubreen Street – The views to be impacted upon are long distance views of the headland to the north from the middle of the rear deck, with distant interface views between land/ocean, and partial ocean views to the east from the kitchen and the deck. The eastern views will not be impacted upon by the proposal.
- 85 Aubreen Street – The views to be impacted upon are from a corner window at the first floor level towards the rear of the property, which has northern views of the headland over both No. 87 Aubreen Street and the subject site. There are partial ocean views to the north

over the rear boundary from the same window. There is an external staircase landing that has north and eastern views to the ocean are also available.

- 87 Aubreen Street – The views to be impacted upon are from the rear yard where the occupants enjoy ocean/headland view to the north over the subject site. The eastern views will not be impacted upon by the proposal.

It must be noted that the existing rear building line of the subject site is set closer to the rear boundary than the adjoining properties at No. 87 and 91 Aubreen Street.



Figure 4. Existing view across the rear yards looking north from the deck at No. 83 Aubreen Street. Subject site is in background, with blue tarpaulin covering the southern side boundary.



Figure 5. Existing long distance eastern views to the ocean from the living room of No. 85 Aubreen Street which will be retained.

b.) What part of the property affected the views are obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

- 83 Aubreen Street – The views occur across three side boundaries from the rear deck to the east and north. There is no impact to the ocean views to the east from either the kitchen or the rear deck due to the proposal. There are ocean/headland views from the middle of the rear deck over the three side boundaries to the north to the long distant headland views (see below).



Figure 6 – View from the kitchen of No. 83 Aubreen Street.



Figure 7 – View from deck of No.83 Aubreen Street.

- 85 Aubreen Street – The views are enjoyed from both a sitting and standing position from the first floor's corner living room window (see below). There are direct eastern views over the rear boundary to the ocean and these views will not be impacted upon by the proposal (refer to figure 8). There are north eastern views to the ocean over the rear garden of both No. 87 Aubreen Street and the subject site that will not be impacted upon by the proposal. The long distant views to the north from the corner living room window from No. 85 Aubreen Street over the side boundary of No. 87 Aubreen Street and the subject site will be impacted upon by the proposal (refer to figure 8). Retention of the northern long distant views from both No. 83 and 85 Aubreen Street are over the side boundaries of a number of properties and are harder to maintain as per the Planning Principle.



Figure 8 – Existing view across the rear yards looking northeast from No. 85 Aubreen Street, taken from a standing position in the living/dining room area.



Figure 9 – View from the external rear staircase of No.85 Aubreen Street. Subject site is in background over the boundary of No. 87 Aubreen Street, with blue tarpaulin covering the southern side boundary. Photo taken 3 March 2009.

- 87 Aubreen Street – There are north eastern views to the ocean over the rear garden of both No. 87 Aubreen Street and the subject site that will not be impacted upon by the proposal.

Accordingly, it can be seen that although some of the views achieved may result from standing positions, they all occur across at least one side boundary, and in the instance of No.83 Aubreen Street, the views are across three side boundaries. Retention of views along the side boundary would be difficult to maintain without significantly reducing the development potential of the subject site.

c.) Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".



Figure 10. Existing view from No.85 Aubreen Street living room. The existing building ridge line for the subject site is RL 101.38. The proposed new upper storey addition ridge line is RL 104.15. The approximate height of the adjoining neighbour's ridge line (No. 91 Aubreen Street) is RL103.29. Note: All ridge line points are taken from subject site's survey plan.



Figure 11. Existing view from No.89 Aubreen Street's rear yard, looking north towards No. 91 and 93 Aubreen Street, where existing rear decks and balconies enjoy views to the north and east towards the Pacific Ocean. Photo taken 3 March 2009.

- 83 Aubreen Street – The views occur from the middle of the rear deck, with distant interface views between land/ocean, and partial ocean views to the east from the kitchen and the deck. The proposed alterations and additions would result in minor view loss from the external rear deck on the first floor and negligible view loss to the east.
- 85 Aubreen Street – The views occur a corner window at the first floor level, and the proposed alterations and additions would result in minor view loss, consisting of ocean/headland views. The views also occur from the external rear deck on the first floor, and the proposed alterations and additions would result in negligible view loss, consisting to the east.
- 87 Aubreen Street – The views occur from the rear yard, and the proposed alterations and additions would result in minor view loss, consisting of ocean/headland views.

Accordingly, it can be seen that overall the extent of the impact is therefore considered minor.

d.) Reasonableness of the proposal that is causing the impact.

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Notwithstanding, the proposed non-compliance with the Side Boundary Envelope Built Form Control, the proposed development maintains compliance with all other relevant Built Form Controls. The design of the proposed rear addition to the existing dwelling has been designed to take in to account the water views available. The height of the proposal is 7.57m which is lower than the maximum 8.5m height control. The rear building line of the proposed rear addition is setback 8.8m from the rear boundary (7.6m to the ground floor rear stairs landing), with the proposed open deck structure on the first floor also setback 8.8m from the rear boundary, and the first floor living room located 12.3m from the rear boundary.

Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. Given the non-compliance relates to the northern Side Boundary Envelope to the upper storey addition, it is considered that the development is reasonable and allows for a reasonable degree of view sharing.

The amended design by placing the addition closer to the front of the property minimises view loss to the surrounding properties.

The non-compliance to the Side Boundary Envelope does not affect the outcome in regards to the view impact due to the location from where views are obtained, as such, the proposal is considered reasonable and acceptable in this instance. Accordingly, it is considered that the potential view impact is reasonable in this instance.

Clause 62 Access to Sunlight

Clause 62 states “development is not to unreasonably reduce sunlight to surrounding properties.”

Comment: Although the proposal will increase the amount of overshadowing of adjoining properties this is not considered to be unreasonable. The provisions of Clause 62 states that development is not to unreasonably reduce sunlight to surrounding properties specifically sunlight, to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9am and 3pm on June 21, and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by development by more than 20%. The properties to the south will retain more than 50% of sunlight for periods greater than 2 hours. Furthermore, it must be noted that the proposal is below the maximum height limits, reducing the amount of possible overshadowing that would otherwise be possible. As noted above the extent of the overshadowing to adjoining properties is considered to satisfy the provisions of Clause 62 as the development will not adversely affect the impact to the adjoining lands and the increased amount of overshadowing to adjoining properties is considered to be minor in its extent and duration. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 63 Landscaped Open Space

Clause 63 states “landscaped open space is to be of such dimensions and slope and of such characteristics that it will; enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality; enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale; enhance privacy between dwellings; accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants; provide space for service functions, including clothes drying; facilitate water management including on-site detention and the infiltration of stormwater; incorporate the establishment of any plant species nominated in the relevant Locality Statement; enable the establishment of indigenous vegetation and habitat for native fauna; conserve significant features of the site.”

Comment: The proposal increases the landscape open space on the site by the removal of the existing garage, shed and concrete in the rear garden which will provide more usable landscaped open space within the rear garden and create a greater sense of openness when viewed from adjoining properties. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 63A Rear Building Setback

Clause 63A states: "in localities where a rear building setback applies, the objectives of the rear building setback controls are: to create a sense of openness in rear yards; to preserve the amenity of adjacent land; to maintain the visual continuity and pattern of buildings, rear gardens and landscape elements; to provide opportunities to maintain privacy between dwellings; and, to provide opportunities for the planting of substantial native trees."

Comment: The works provide numerical compliance with the development standard of 6m, providing a rear building setback of 7.6m to the ground floor rear stairs landing, 8.8m to the ground level of the main dwelling and first floor deck and 12.3m to the first floor living room, thus, providing adequate separation between the properties at the rear. The proposed development will be built in a similar location as to the existing rear section of the existing building. The removal of the existing structures at the rear will open up the rear garden and will improve the openness of the rear garden. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 64 Private Open Space

Clause 64 states "Private open space is to be; provided for all housing; clearly set apart for private use; directly accessible from a living area of the dwelling and capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play; and, capable of receiving not less than 2 hours of sunlight between 9 am and 3 pm on June 21 over at least 50% of the area of the private open space (in the case of ground level private open space and other than for apartment style housing)."

Comment: The proposal provides greater than 60 m² private open space with dimensions of greater than 5m. Within the area to the rear of the existing dwelling, approximately 105 m² is set apart for private use, is directly accessible from the ground floor living area and receives not less than 2 hours of sunlight between 9am and 3pm on 22nd June. Furthermore, the area identified as private open space provides 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. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 65 Privacy

Clause 65 states "development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings."

Comment: The proposal includes window openings to both the north and south facing side boundaries. Ground floor window and door openings to both the northern and southern elevations do not provide any unreasonable direct overlooking as they are at ground level with a standard dividing fence along each side boundary, therefore, minimising any unreasonable privacy impacts. The first floor window openings to both the northern and southern elevations to the living and dining rooms and staircase are high traffic areas. The 2700mm long by 400mm high window (W9) facing the street is a highlight window 2.03m above the FFL100.93, thus ensuring privacy impacts are minimised.

The two south-facing windows (W8 and W10) on the southern elevation of the first floor will be recommended to be constructed of translucent glazing to a minimum sill height of 1.65 metres above the finished floor level at FFL100.93, to ensure no unreasonable privacy impacts having regard to the rooms they service.

The north-facing window 6 (W6) on the proposed upper storey addition on the northern elevation of the first floor will be recommended to be constructed of translucent glazing to a minimum sill height of 1.65 metres above the finished floor level at FFL100.93, to ensure no unreasonable privacy impacts having regard to the rooms they service.

It must be noted that some overlooking to rear gardens is unavoidable as the lots along this section of Aubreen Street are narrow, around 10 metre wide frontages. The majority of dwellings along this

section of Aubreen Street have rear decks that overlook the adjoining properties as the orientation is to the north to gain water views.

Concern has been also been raised in relation to privacy concerns over the proposed first floor east-facing deck. The proposed deck is proposed to be at RL100.87, and the rear adjoining neighbour's dwelling at No. 84 Idaline Street is located 23 metres from the subject site's proposed development. The rear adjoining neighbour, at No. 84 Idaline Street (see Figure 3) has an existing swimming pool that abuts the rear boundary fence shared with the subject site.



Figure 3. View from existing ground level. A similar RL of the proposed new ground floor rumpus. Photo taken 3 March 2009.

With the proposed first floor east-facing timber deck located no less than 23 metres to No. 84 Idaline Street, the separation between dwellings is considered satisfactory in maintaining a reasonable level of privacy between dwellings. However, a 1.65 metre high privacy screen (as measured from finished floor level at RL100.88) will be recommended to be erected from the living room wall for a length of no greater than 2 metres. This will maintain privacy to the adjoining northern property and maintain views across the subject site for properties to the south. The proposed first floor deck is located 8.8m from the rear boundary which complies with Council's rear setback controls. Subject to draft conditions of consent, the proposed usable area of the deck is 23 m² in which is of a size that is considered not to have unreasonable privacy impacts upon neighbours.

Consequently, subject to the draft conditions of consent it is considered that the proposed development does not cause unreasonable direct overlooking of habitable rooms or principal private open spaces of other dwellings. Accordingly, the proposal satisfactorily meets the requirements of this Clause.

Clause 66 Building Bulk

Clause 66 states "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."

Comment: The development is considered to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and does not visually dominate the street or surrounding spaces. The development is consistent with the predominant pattern and scale of development in the immediate locality. The development maintains the 950mm northern side setback and by removing the built form structures and thus increasing the landscaping provisions within the rear yard, the proposal increases the southern side setback to 2.8m. In addition the modest dimensions of the first floor addition and varying building setbacks provide visual relief to the site. Furthermore the proposal maintains the visual continuity and pattern of buildings and does not result in any unreasonable impacts to adjoining properties. Accordingly, the proposal satisfactorily meets the requirements of this Clause.

Clause 67 Roofs

Clause 67 states “roofs are to complement the local skyline. Lift overruns and other mechanical equipment is not to detract from the appearance of roofs.”

Comment: The proposed roof form of the upper storey addition will consist of a low colourbond metal and is considered to complement the local skyline, providing integration with the architectural style of the dwelling, with a level of visual interest and articulation and is considered to appropriately respond to the site topography. It is considered that the roof form provides visual interest by articulating elements, integrating with the architectural design of the dwelling and with the roof forms of the existing adjoining dwellings. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 68 Conservation of Energy and Water

Clause 68 states “development is to make the most efficient use of energy and water.”

Comment: The development incorporates features into the design that are consistent with energy and water use conservation, to provide a more favourable environmentally sustainable development. The imposition of a condition of consent will ensure the commitments made on the BASIX certificate submitted with the application are implemented in the construction of the building works. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 71 Parking Facilities

Clause 71 states “parking facilities (including garages) are to be sited and designed so as not to dominate the street frontage or other public spaces.”

Comment: The site currently provides for a covered hard car-standing area with three (3) tandem car parking spaces. Upon the removal of the rear concrete area adjoining the existing carport structure, the proposed parking facilities on the site will provide for two (2) tandem car parking spaces. The proposed development is designed in a manner that does not dominate the street frontage or other public spaces. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 74 Provision of Carparking

Clause 74 states “adequate off-street carparking is to be provided within the subject property boundaries.”

Comment: Apart from demolishing the concrete within the rear yard which was used for vehicle parking on site, there is no alteration to the existing provision for car parking on the site. Two (2) tandem car spaces will be provided under the existing carport structure, satisfying the parking requirements of Schedule 17 of the Warringah LEP 2000. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 75 Design of carparking areas

Clause 75 states “carparking, other than for individual dwellings is to: avoid the use of mechanical car stacking devices; not be readily apparent from public spaces; provide safe and convenient pedestrian and traffic movement; include adequate provision for manoeuvring and convenient access to individual spaces; where possible enable vehicles to enter and leave the site in a forward direction; incorporate unobstructed access to visitor parking spaces; be landscaped to shade parked vehicles; provide on-site detention of stormwater where appropriate; and make reasonable provision for the carparking needs of people with physical disabilities.”

Comment: The proposed works have been designed to provide safe manoeuvring opportunities for vehicles on-site and satisfying the requirements of this Clause. The existing carport adjacent to the existing kitchen will be removed and replaced with soft landscaping. The proposed parking facilities will include the retention of the existing carport, thus, maintaining the existing vehicle crossing and driveway. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

Clause 76 Management of Stormwater

Clause 76 states "stormwater runoff from development is to discharge to a Council drainage system approved by Council for the purpose and is to have minimal impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake, waterway or the like."

Comment: The proposed works are fully contained over the existing building footprint. As such, there is no increase to the net impervious surface area from the proposed alterations and additions. Accordingly, on-site stormwater detention (OSD) is not required. Council's Development Engineer raised no objections to the proposal, subject to conditions. Accordingly, it is considered that the proposal satisfies the requirements of this Clause.

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

Two (2) car parking spaces of satisfactory dimensions are maintained within the existing housing arrangement, satisfying the requirements of Schedule 17.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The development application was lodged on 27 January 2009 as such is subject to the application of Council's Section 94A Development Contributions Plan adopted by Council.

The Section 94A Contribution is calculated in the table below:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$	181,700.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.45%	\$818	Rams
S94A Planning and Administration	0.05%	\$91	Rams
Total	0.5%	\$909	

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, Draft Warringah Local Environmental Plan 2009 and the relevant codes and policies of Council.

The proposal is considered to be consistent with the Desired Future Character of this locality given the consistency with the visual pattern and predominant scale of detached housing within the existing established streetscape. Notwithstanding the numerical non-compliance to the Side Boundary Envelope Built Form Control, the proposal is considered to meet the requirements of the

Built Form Controls and complies with the overall height and rear setback and, furthermore satisfactorily addresses the General Principles of Development Control, therefore is considered an acceptable development in this regard.

The submissions received during notification have been addressed under the 'Notification and Submissions' section of this report and furthermore under General Principles of Development Control. The issues regarding the two south-facing windows (W8 and W10) on the southern elevation and the north-facing window (W6) on the northern elevation of the first floor have been dealt with by a recommendation that a condition be imposed to construct of translucent glazing to a minimum sill height of 1.65 metres above the finished floor level at FFL100.93. The demolition of the existing built form structures within the rear yard increases the landscaped open space provision to 202 m² (48% of the subject site). In addition the rear setback to the main dwelling is 8.8m (7.6m rear setback to the ground floor rear stairs landing and 8.8m to the first floor) which is considered compatible with those on adjoining and nearby properties. Given the above, excluding the open 6.72m long by 3.5m wide deck, the proposed upper storey addition has been setback an additional 6.1m from the original proposal as viewed by the ADP on 2 April 2009. The draft conditions of consent have been amended where necessary to delete any repeated or unnecessary conditions, which address the issues raised from ADP's previous assessment of the application. Other issues raised, such as view loss and privacy, have also been taken into consideration and assessed under the relevant General Principles of Development Control.

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, subject to conditions.

RECOMMENDATION (APPROVAL)

- A.** That the Development Application No: DA2009/0085 for the alterations and additions to an existing dwelling, at Lot 3 Sec Z in DP 33000, No.89 Aubreen Street, Collaroy Plateau, be approved subject to the conditions in the recommendation in the attached Report to ADP on 2 April, 2009.
- B.** That pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, the Council vary the provisions of Section 95 (1) so this consent will lapse three (3) years from the date in which it operates, and the applicant be advised accordingly.



Page 119

Application Determination Panel Report to meeting held on 2 April 2009

3.4

89 Aubreen Street, Collaroy Plateau – Alterations and Additions to Existing Dwelling

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer: Shaylin Moodliar
Address / Property Description: Lot 3 DP 33000, 89 Aubreen Street Collaroy Plateau NSW 2097

Proposal: Alterations and additions to an existing dwelling
Development Application No: DA2009/0085
Plans Reference: DRWG No. 280920 (dated September 2008)
Applicant: Graham Andrew Mackay, Sharyn Jane Mackay
Owner: Graham Andrew Mackay, Sharyn Jane Mackay
Application Lodged: 27 January 2009
Amended Plans: There are no amended plans for this application.

Locality: D4 Collaroy Plateau
Category: Category 1 - Housing
Clause 20 Variations: YES (southern Side Setback, Landscaped Open Space)
Land and Environment Court Action: NO
Referred to IHAP: NO
Referred to ADP: YES (Six unresolved submissions)

SUMMARY

Submissions: 02/02/2009 to 17/02/2009 (Notification Period) – 6
Outside Notification Period - Nil
Submission Issues: Site overdevelopment and bulk and scale, visual privacy, noise from proposed east-facing first floor timber deck, loss of sunlight, non-compliances, excessive size and bulk, precedent-future development along Aubreen Street, decline in value to adjoining properties, discrepancies with the Statement of Environmental Effects (SEE), part demolition of existing structures, development similar to previous refusal DA2001/1841, view loss.
Assessment Issues: Visual privacy, noise from proposed east-facing first floor timber deck, non-compliances, precedent-future development along Aubreen Street, view loss.
Recommendation: Approval
Attachments: Plans

Application Determination Panel Report to meeting held on 2 April 2009

LOCALITY PLAN (not to scale)



Figure 1. Lot 3 DP 33000, 89 Aubreen Street Collaroy Plateau NSW 2097

Subject Site: Lot 3 DP 33000, 89 Aubreen Street Collaroy Plateau NSW 2097

Notified Residences: Under the provisions of the applicable Development Control Plan the subject application has been notified to the adjoining property owners and occupiers. As such, there were **10** notification letters sent.

The properties notified were consistent with the notification list and notification plan.

Application Determination Panel Report to meeting held on 2 April 2009

SITE PHOTOS



Figure 2. Existing front view of No. 89 Aubreen Street. Photo taken 3 March 2009.



Figure 3. Existing view of carport structure. Photo taken 3 March 2009.

SITE DESCRIPTION

The subject site is described as Lot 3 DP 33000, NSW 2097, commonly known as No. 89 Aubreen Street Collaroy Plateau, with vehicle access via Aubreen Street. The site is entirely flat and the shape of the allotment is a regular rectangle. Apart from the main sewer line running parallel from the rear boundary, there are no unique site constraints within the subject site as the site has an eastern (rear) and western (front) boundary measuring 10.67m, and a northern and southern side boundary measuring 39.625m.

Application Determination Panel Report to meeting held on 2 April 2009

The subject site currently contains a single-storey detached dwelling with provisions for two (2) carparking spaces within the front yard. There is an existing detached shed and a detached garage and laundry located in the rear yard. The site is adjoined to the immediate south by a single-storey dwelling (No. 87 Aubreen Street) and further south by two-storey detached dwellings (No. 83 and No. 85 Aubreen Street), and to the north by a two-storey detached dwelling (No. 91 Aubreen Street). The site is located opposite single and two-storey detached dwellings. According to information currently available to Council, there are no significant site constraints or unique environmental features on the subject site.

RELEVANT BACKGROUND

17 December 2001 - Council received the Development Application DA2001/1841 for the alterations and additions to an existing dwelling, including an upper storey addition.

2 July 2002 – Council refused the Development Application DA2001/1841 for the alterations and additions to an existing dwelling, including an upper storey addition. Six reasons for were given for refusal including inconsistency with Clause 61 and 65 of the General Principles of the WLEP 2000, an inconsistency with the pattern of existing adjoining development, a failure to comply with the objectives for the 40% minimum area of landscaped open space of the site area, and insufficient information with regard to the disposal of stormwater.

27 January 2009 - Council received the Development Application DA2009/0085 for the alterations and additions to an existing dwelling, including an upper storey addition, which is the subject of this report.

PROPOSAL IN DETAIL

The applicant seeks Council consent for:

Ground Floor

- Demolish the rear section of the existing dwelling.
- Demolish the rear detached garage, shed and concrete area to accommodate a new landscaped open space.
- Construct a new ground floor over the existing building footprint to include:
 - new rumpus
 - new laundry,
 - new east-facing timber deck.
- Convert the existing store room to accommodate the new stairway to the new upper floor addition.
- Extend the existing front roof to cover the existing front entry and concrete paved area
- Replace existing fibro carport roof with new colourbond roofing and construct a new 5.6 metre long brick wall along southern boundary for the carport.

First Floor

- Construct a new upper storey addition to include:
 - new kitchen with adjoining family room;
 - new east-facing timber deck.

Application Determination Panel Report to meeting held on 2 April 2009

AMENDMENTS TO THE PLAN

There are no amended plans for this application.

STATUTORY CONTROLS

- k) Environmental Planning and Assessment Act 1979
- l) Environmental Planning and Assessment Regulations 2000
- m) SEPP No. 55 – Remediation of Land
- n) SEPP BASIX
- o) SEPP Infrastructure
- p) Warringah Local Environment Plan 2000
- q) Section 94A Development Contributions Plan
- r) Warringah Development Control Plan
- s) Draft Environmental Planning Instruments

REFERRALS

There are no referrals applicable for this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The application was notified between 2 February 2009 and 17 February 2009 for a notification period of 14 days to 10 adjoining and nearby properties. A total of 6 submissions were received in response to the application. Submissions were received from the following:

Submission Received	Address
John and Kelly E'strange	93 Aubreen Street, Collaroy Plateau NSW 2097
John and Anne Catlin	84 Idaline Street, Collaroy Plateau NSW 2097
Wlater and Donna Adlam	86 Idaline Street, Collaroy Plateau NSW 2097
John Mumford	83 Aubreen Street, Collaroy Plateau NSW 2097
John Mumford	85 Aubreen Street, Collaroy Plateau NSW 2097
Eng Chuan Lim	87 Aubreen Street, Collaroy Plateau NSW 2097

The following issues were raised in the submissions:

- Site overdevelopment and bulk and scale;
- Visual Privacy;
- Noise from proposed east-facing first floor timber deck;
- Overshadowing / Loss of Sunlight;
- Non-compliance with the southern side setback/carport on southern boundary;
- Non-compliance with the landscaped open space;
- Excessive Size and bulk;
- Precedent – Future development along Aubreen Street;
- Decline in value to adjoining properties;
- Discrepancies with the Statement of Environmental Effects (SEE);
- Part demolition of existing structures;
- Development similar to previous refusal DA2001/1841;
- View loss;
- Rear boundary setback.

Application Determination Panel Report to meeting held on 2 April 2009

The matters raised within the submissions are addressed as follows:

- **Site overdevelopment and bulk and scale**

The proposed development will not significantly increase the visual bulk of the streetscape of Aubreen Street as the proposed development is of a scale and bulk that is consistent with structures on adjoining or nearby land and will not visually dominate the streetscape. Developments along Aubreen Street are predominantly characterised by modern single and two-storey detached houses with pitched or hipped roof features.

The proposed development will result in an upper storey addition to the existing dwelling with a maximum height above natural ground level of approximately 6.37metres, which complies with Council's Building Height Built Form Control. The submissions raised concern over a proposed development not stepping back to the front of the building footprint. This matter was considered and given that the land is fairly flat, the proposal is of a design and character similar to that of the adjoining neighbours. If the proposal was not in character with the adjoining detached houses, then consideration for amended plans would be upheld. In this instance, the proposed development is deemed to be consistent with adjoining single and two-storey detached houses, therefore it is considered that the proposed development has a bulk and scale similar to that of adjoining properties.

The proposal is therefore consistent with surrounding properties and is considered to be satisfactory with regard to the Desired Future Character for the locality. The proposal is not considered to cause any adverse impact on the surrounding natural or built environments by means of overshadowing, privacy impact, view loss or visual intrusion on the public domain. Accordingly, the proposal is not considered to cause any adverse impact on the surrounding locality.

- **Visual privacy**

The issue of the location of the proposed development overlooking the rear yards of Aubreen Street was considered, and a merit assessment of the proposed development against the intent of Clause 65 *Privacy* of WLEP 2000 is considered under the 'General Principles of Development Control' of this report which demonstrates the suitability of the proposal. With respect to visual privacy, the proposed alterations and additions are consistent with the General Principle for *Privacy* in WLEP 2000. Furthermore, the proposed alterations and additions will not cause direct overlooking of habitable rooms. Overlooking to rear gardens is unavoidable as the lots along this section of Aubreen Street are narrow, around 10m wide lots. The majority of dwellings along this section of Aubreen Street have rear decks that overlook the adjoining properties as the orientation is to the north to gain water views.

- **Noise from proposed east-facing first floor timber deck**

With regard to Clause 43 *Noise* of the WLEP 2000, the proposed development does not result in noise emission which would unreasonably diminish the amenity of the area and the proposed development will neither enhance nor reduce the existing noise generating activities, and furthermore, the proposed development is designed to mitigate the effect of that noise. The proposed rear deck is smaller than the adjoining rear decks at No. 91 and 93 Aubreen Street. The size of the deck will also limit the use of the deck with regards to numbers of people using it. The deck is set further forward into the rear garden however complies with the 6m rear setback requirement.

Application Determination Panel Report to meeting held on 2 April 2009

- **Overshadowing / Loss of Sunlight**

The submission raised concern regarding overshadowing from the proposed development to the adjoining rear yard of No. 87 Aubreen Street. A merit assessment of the proposed development against the intent of Clause 62 *Access to Sunlight* of WLEP 2000 is considered under the 'General Principles of Development Control' of this report, which demonstrates the suitability of the proposal as it complies with the provisions of the Clause.

- **Non-compliance with the southern side setback/carport on southern boundary**

The development results in a breach to the Side Setback on the southern elevation. For a detailed discussion including merit assessment and Clause 20 Variation to the Side Setback Built Form Control, refer to built form controls section in this report. The non-compliance is supported in this instance because the proposed non-compliance is similar in bulk and design to the existing carport structure and does not have significant amenity impacts.

- **Non-compliance with the landscaped open space**

The existing allotment results in a breach to the landscaped open space. The proposed development will increase the existing landscaped open space, by reinstating 44.56sqm of soft landscaped area to the rear yard. For a detailed discussion including merit assessment and Clause 20 Variation to the Landscaped Open Space Built Form Control, refer to built form controls section in this report. The non-compliance is supported in this instance as the increase in landscaping meets the intent of the Desired Future Character of the locality and Clause 63 of the WLEP 2000.

- **Excessive Bulk and Scale**

The proposal for an upper-storey addition to the existing dwelling is consistent with surrounding dwellings, with respect to Clause 66 of the WLEP 2000, notwithstanding the non-complying elements of the proposal, assessed on its merits, the proposed development complies with the Building Height Control and generally provides consistency with the existing built form and pattern of development within the Aubreen Street neighbourhood. The proposal for an upper storey addition to the existing dwelling is consistent with surrounding dwellings, with respect to Clause 66 *Building Bulk* of the WLEP 2000 the building fits within the building envelope. The design incorporates techniques to provide visual relief through 'breaking up' the lengths of the walls and articulation, as the first floor addition is substantially 'stepped back' from the the proposed building footprint when compared to the carport roof structure. The proposal is considered to be consistent with the predominant scale of detached style housing in the locality. Furthermore the development does not alter the existing building footprint. The proposal is thus suitable for the subject site.

- **Precedent – Future development along Aubreen Street**

The submissions have raised concern regarding the future development of their own properties being hindered by the proposed development of the subject site. The application is assessed on its own merits and any future development applications for properties located within the surrounding area will also be assessed on its own merits with regards to the governing controls. Any approval of the subject application will not create an undesirable precedent for other similar developments within the locality. The proposed development is permissible within the D4 Collaroy Plateau Locality with Council consent subject to the provisions of Warringah LEP 2000, which the proposed development is considered to be consistent with.

Application Determination Panel Report to meeting held on 2 April 2009

- **Decline in value to adjoining properties**

Property value is not a consideration under the *Environmental Planning and Assessment Act 1979* when assessing this development application. Each development application is assessed in accordance with the requirements of the relevant planning instruments and statutory laws. The proposed development is permissible within the D4 Collaroy Plateau Locality with Council consent subject to the provisions of Warringah LEP 2000, which the proposed development is considered to be consistent with.

- **Discrepancies of the Statement of Environmental Effects (SEE)**

The submission raises concern of some discrepancies with the SEE prepared for No. 89 Aubreen Street, as it 'hides the true facts of the proposal'. While a SEE is necessary for submitting a Development Application, the information provided for this document is provided by the applicant and is used for information purposes only, and subsequently, an independent assessment is undertaken by the Council's Development Assessment Officer when assessing the merits of the proposal. Furthermore, it must be noted that the SEE calculations for landscaped open space are prepared by the applicant for the subject site, and further assessment of these calculations are undertaken by Council's Development Assessment Officer, whereby only glaring discrepancies of calculations of the landscaped open space are scrutinised for additional information. In this instance, the estimated calculations for the landscaped open space (146 sqm or approximately 34.6% of the subject site) as shown on the plans and the SEE, were calculated to be slightly over the actual proposed landscaped open space as calculated by the Assessment Officer which is calculated at 138sqm or approximately 33% of subject site.

- **Part demolition of existing structures**

The proposed part demolition of the existing structures in preparation of an rear addition to the existing dwelling will not raise any issues in terms of amenity for neighbours and is of a size and scale that is commensurate with surrounding detached style housing of the same type. Conditions regarding asbestos removal will be imposed in order to protect neighbouring dwellings.

- **Development similar to previous refusal DA2001/1841**

The submissions raised concern over some similarities to the previous development application (DA2001/1841) that the same owners lodged with Warringah Council on 17 December 2001. Following a desktop GIS search and retrieval of the previous refusal file from Council records, it is considered that the current development application (DA2009/0085) is substantially smaller in scale than the previous proposal that was refused on 2 July 2002. This current development application will be assessed according to Built Form Controls and the General Principle of Development Control of the WLEP 2000. The view loss assessment undertaken in 2002 was undertaken under Clause 61- Views whereas under this development application the view loss Planning Principle - *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* is requirement and has been undertaken. The view loss planning principle is a 4 - step test which provides greater clarification for view loss assessments.

The proposal is considered to be consistent with the predominant scale of detached style housing in the D4 Collaroy Plateau Locality. Furthermore the development does not alter the existing building footprint. The proposal is thus suitable for the subject site.

Application Determination Panel Report to meeting held on 2 April 2009

- **Loss of views**

A detailed discussion has been undertaken in the 'General Principles of Development Control' section of this report. The proposal has been assessed against the four step view loss planning principle and it is considered that reasonable view sharing is achieved. The views of the properties to the south of the subject site are over numerous side boundaries and although this proposal will result in partial loss of northern long distant views across the side boundaries of not only the subject site but also over No. 91 and 93 and also over a large amount of properties to the north which could all be developed in accordance with WLEP 2000 controls which would result in further view loss. Currently due to the existing rear setbacks and the undeveloped nature of a number of properties on Aubreen Street, the views over the side boundaries allow for undisturbed long distant views. There will be retention of the existing partial water views to the east which will not be impacted upon by the proposal. The proposal is significantly lower in height than the maximum 8.5m height control and complies with the 6m rear setback.

- **Rear setback should reflect the existing rear setbacks of Aubreen Street.**

It is noted that there is an existing greater rear setback than 6m along the section of Aubreen Street from No. 83 to No. 93 Aubreen Street. However, to retain a greater setback than 6m for any future development would involve a strategic policy review requiring individual areas to have a variety of rear building setbacks. This is not the case with the current WLEP 2000 – General Principle for rear setbacks which is currently 6m. The existing dwelling house at the subject site is currently set further forward than the adjoining properties. The proposal complies with the 6m rear setback with the rear building line of the addition set back 8.8m and the deck is proposed to be setback 6m which complies with WLEP 2000.

MEDIATION

Mediation was not requested for this development application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	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 or Draft Planning Agreement	None applicable.
Section 79C (1) (a)(iv) - Provisions of the regulations	The EPA Regulations 2000 requires the consent authority to impose a condition requiring compliance with the Building Code of Australia. Clause 92 of the EPA Regulations 2000 requires Consent Authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i> .
Section 79C (1) (b) – The likely impacts of the development, including environmental impacts on	(i) The environmental impacts of the proposed development on the natural and built environment

Application Determination Panel Report to meeting held on 2 April 2009

Section 79C 'Matters for Consideration'	Comments
the natural and built environment and social and economic impacts in the locality	<p>are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental 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 proposed residential dwelling maintains a compatible land-use for the site and is not considered to result in any adverse impacts on the adjoining properties or on the locality. It is considered that the subject site is suitable for the proposed works.</p>
Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs	In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.
Section 79C (1) (e) – The public interest	The wider public interest is served by the continued maintenance of the site, and its ability to provide an appropriate land-use within this locality.

State Environmental Planning Policies

SEPP Infrastructure - Clause 45

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; 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.

SEPP No. 55 – Remediation of Land

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 used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

Application Determination Panel Report to meeting held on 2 April 2009

SEPP - Building Sustainability Index: BASIX 2004 (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.

Regional Environmental Planning Policies

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

Warringah Local Environmental Plan 2000

Desired Future Character

The subject site is located in the D4 Collaroy Plateau Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

The Collaroy Plateau locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will continue to be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The properties north and east of Edgecliff Boulevard form part of the crests and sideslopes of the Collaroy escarpment. Development in this part of the locality must integrate with the landscape and topography and minimise its visual impact on long distance views of the escarpment. Rock outcrops and indigenous tree canopy will be integrated with new development where possible. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Buildings are not to be erected on areas shown cross-hatched on the map due to the land's steep slope, instability and visual sensitivity.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.

The proposed development is identified as Category 1 (Housing) development, pursuant to Clause 6 of Warringah LEP 2000 and defined as housing.

Notwithstanding, as the proposal involves variations to Built Form Controls, Clause 20 of WLEP 2000 requires a higher consistency test of the development against the Desired Future Character Statement (DFC).

Accordingly, it is considered that the proposal is consistent with the DFC for the following reasons:

- The proposed works maintain the detached style character of the existing dwelling. It is considered that the proposed works provide a complementary land use to the existing residential use. As such, the proposal is considered to satisfy this requirement.

Application Determination Panel Report to meeting held on 2 April 2009

- The proposed works provide a complying front building setback, and maintain the existing landscaped front gardens. Further, the works provide consistency with the visual pattern and predominant scale of development within the streetscape. No subdivision works are proposed as part of this application. As such, the proposal is considered to satisfy this requirement.
- The proposed development does not form part of the crests and sideslopes of the Collaroy escarpment, however, the proposed development integrates with the landscape and topography. The proposed works do not result in any necessary removal of trees, and there are no other visible unique environmental features located on the subject site. It is considered that the works utilise materials that will complement the colours and textures of the natural environment. Further, the subject site is not located on a hillside, or in the vicinity of ridge-tops. As such, the proposal satisfies this requirement.
- The proposed development is not located on areas shown cross-hatched on the map due to the land's steep slope, instability and visual sensitivity. As such, the proposal is not considered subject to this requirement.
- The proposed works are for private residential use and are not associated with the surrounding local retail centres. As such, the proposal is not considered subject to this requirement.

Built Form Controls for Locality D4 Collaroy Plateau

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	8.5metres	6.37m	Complies	YES
Building Height: Natural ground to upper ceiling (metres)	7.2metres	5.4m	Complies	YES
Front Setback	6.5metres	11.8m	Complies	YES
Housing Density	1per/450sqm	1per/422.8sqm	Exiting and unchanged	YES
Landscaping	40% of site (169 sqm)	33% of site (138 sqm)	Existing: 93sqm See Clause 20 variation below.	NO
Rear Setback	6metres	6.2m	Complies	YES
Side Boundary Envelope	5metres/45 degrees	5metres/45 degrees	Complies	YES
Side Setbacks	900mm	North: 900mm South: Nil	See Clause 20 variation below.	NO

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:

Application Determination Panel Report to meeting held on 2 April 2009

(i) 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.)

(ii) Desired Future Character of the Locality

The subject site is located within the D4 Collaroy Plateau 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 as it maintains a 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).

(iii) 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:

Side Setback

Required: The subject site falls within the D4 Collaroy Plateau Locality and as such is subject to the Side Setback Control of 900mm.

Proposed: The proposed single storey garage wall provides a nil setback to the southern side boundary, for the length of 5.6 metres.

Response: In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the Side Setback control. Accordingly, compliance with the objectives are addressed below:

Objective 1: *Ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment: The non-compliance is contained to the proposed 2.6metre-high brick wall on the southern elevation in its entirety of its 5.6metre length. The proposed brick wall will not become visually dominant by virtue of its height and bulk when viewed from the streetscape or adjoining neighbours, as the solid portion of the wall will only extend 600mm over the existing side boundary paling fence. The height and bulk of the solid brick wall on the southern side boundary is, therefore, not considered to visually dominant to adjoining neighbours.

Objective 2: *Preserve the amenity of the surrounding land.*

Comment: It is considered that the breach to the side setback does not directly impact the adjoining property on the southern elevation with regard to both visual and acoustic privacy, as the proposed brick wall structure does not have any adverse impacts for overlooking to the adjoining dwelling, including private open spaces and habitable rooms. As such, it is considered that an appropriate level of visual and acoustic privacy is maintained to both the subject site and the adjoining property.

Application Determination Panel Report to meeting held on 2 April 2009

In addition, it is considered that the extent of the non-compliance will not result in an unreasonable level of overshadowing to the adjoining dwelling due to the height of the single storey brick wall.

Further, at the location of the proposed 5.6 metre long brick wall, no view corridors are obtained from or across the subject site. As such, it is considered that the non-compliance will not result in any unreasonable impact to view sharing and is not considered likely to be visually intrusive to any surrounding area.

Objective 3: *Ensure that development responds to site topography.*

Comment: The subject site is considered predominantly level, and it is considered that the proposed upper-storey addition to the existing dwelling is predominantly commensurate with the site topography.

Objective 4: *Provide separation between buildings.*

Comment: It is considered that the proposed works provide adequate separation between the subject site and the adjoining dwellings. In its entirety, the non-compliance of the proposed single storey brick wall measures 5.6m in length and up to 2.6 metres in height, and is located on the existing carport footprint. It should be noted also that the design of the upper storey addition provides an increased setback to the southern side boundary from that of the proposed carport roof, providing articulation and a reducing the sense of visual bulk on the southern side boundary. As such, it is considered that the proposal provides separation between buildings. The rear addition is located 1m off the northern side boundary which complies with the side setback controls.

Objective 5: *Provide opportunities for landscaping.*

Comment: It is considered that the reinstatement of 45sqm of soft landscaped area within the rear yard, provides an adequately sized area for the establishment of landscaping works, commensurate with the height and scale of the proposed development.

Objective 6: *Create a sense of openness.*

Comment: The proposed works provide adequate provision for landscaped and private open space, and provide adequate separation between the subject site and the adjoining dwellings. The proposed development will increase the sense of openness by demolishing the rear detached structures and reinstating a soft landscaped area within the rear yard, adjoining the proposed carport.

Further, it is considered that the proposal maintains the existing pattern of development within the established streetscape. As such, there will be no significant cumulative impact to the bulk and scale when viewed from the streetscape, therefore maintaining a sense of openness to the subject site.

Clause 20 Variation – Supported

Having regard to the above, it is considered that the proposal, notwithstanding the numerical variation to the Side Setback control for the locality, is still consistent with the Desired Future Character statement for the D4 Collaroy Plateau Locality.

The proposed works are not considered to become visually dominant by virtue of its height and bulk, and preserves the amenity of the surrounding land. In addition, the works are considered to respond to site topography, providing separation between buildings, opportunities for landscaping and maintains a sense of openness. Accordingly, variation to the Built Form Control is supported under Clause 20 of WLEP 2000.

Application Determination Panel Report to meeting held on 2 April 2009

Landscaped Open Space

Required: The subject site falls within the D4 Collaroy Plateau Locality and as such is subject to the Landscaped Open Space control of 40% of the site.

Existing: The existing provision of Landscaped Open Space is approximately 93sqm, which equates to 22% of the subject site area.

Proposed: The proposed development results in approximately 138sqm landscaped open space, which equates to 33% of the total site area.

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

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

Comment: The proposed development results in an increase in the provision of landscaped open space of approximately 45sqm, which is considered to meet the intent of the landscaped open space Built Form Control. Notwithstanding, assessed on its merits, it is considered that the numerical provision proposed, allows for the establishment of appropriate planting that will maintain and enhance the streetscape and address the Desired Future Character of the locality.

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

Comment: It is considered that the additional landscape open space would allow for the establishment of landscape works that are of an appropriate scale and density commensurate with the building height, bulk and scale, both to the rear and front of the existing dwelling.

Objective 3: *Enhance privacy between dwellings.*

Comment: Adjoining the new ground floor rumpus and deck, the proposal incorporates to reinstate approximately 45sqm as soft landscaped open space to enhance privacy between dwellings to the adjoining rear properties. These areas allow for the provision of landscape plantings that will contribute to achieving a visual and acoustic privacy between dwellings.

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

Comment: It is considered that the reinstatement of the rear yard as predominately soft landscaped open space, will enable the accommodation of appropriate outdoor recreational needs, such as entertaining, relaxation, a play area for children and suit the requirements of the dwelling occupants including clothes drying and serve as an extension of living space.

Objective 5: *Facilitate water management including on-site detention and the infiltration of stormwater.*

Comment: It is considered that the site maintains an adequate provision of soft landscaping so as to allow for the infiltration and management of stormwater and the proposed works should not result in any adverse impact on the subject site or the adjoining properties. In addition, a 2500L stormwater tank is proposed for the rear yard.

Application Determination Panel Report to meeting held on 2 April 2009

Objective 6: *Conserve significant features on the site.*

Comment: There are no unique or significant environmental features located on the subject site, other than the existing landscaped gardens, which will predominantly be retained as part of the proposed works. It is considered accordingly, that the proposal does not unreasonably detract from the visual and natural quality of the site or the locality.

Clause 20 Variation – Supported

Having regard to the above, it is considered that the proposal, notwithstanding the numerical variation to the Landscaped Open Space control for the locality, is still consistent with the Desired Future Character statement for the D4 Collaroy Plateau Locality.

The proposed works are considered to maintain and increase the provisions for landscaped open space, to enhance the established landscape setting of the streetscape, for the establishment of landscape plantings commensurate with building height, bulk and scale, to maintain privacy, accommodate outdoor recreational needs, allow for adequate infiltration of stormwater and conserve significant features on the site. 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	The Development does not result in overspill or glare from artificial illumination, or sun reflection, and does not unreasonably diminish the amenity of the locality. The development is satisfactory in addressing the General Principle.	YES
CL39 Local retail centres	NO	No Comment	N/A
CL40 Housing for Older People and People with Disabilities	NO	No Comment	N/A
CL41 Brothels	NO	No Comment	N/A
CL42 Construction Sites	YES	The proposed construction site will not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment and is satisfactory in addressing the General Principle. Appropriate standard conditions would adequately address the construction requirements associated with the building works proposed on the site.	YES, subject to conditions
CL43 Noise	YES	With regard to Clause 43 <i>Noise</i> of the WLEP 2000, the proposed development does not result in noise emission which would unreasonably diminish the amenity of the area and the proposed development will neither enhance nor reduce the existing noise generating activities, and furthermore, the proposed development is designed to mitigate the effect of that noise.	YES
CL44 Pollutants	YES	The subject site has only previously been used for residential purposes and as such is unlikely to contain any pollutants; therefore the provisions of this principle have been satisfactorily addressed.	YES
CL45 Hazardous Uses	NO	No Comment	N/A
CL46 Radiation Emission Levels	NO	No Comment	N/A
CL47 Flood Affected Land	NO	No Comment	N/A

Application Determination Panel Report to meeting held on 2 April 2009

General Principles	Applies	Comments	Complies
CL48 Potentially Contaminated Land	YES	The site has historically been used for residential purposes, there is no evidence to suggest that the site is contaminated.	YES
CL49 Remediation of Contaminated Land	NO	No Comment	N/A
CL49a Acid Sulfate Soils	NO	No Comment	N/A
CL50 Safety & Security	YES	The proposal will not be detrimental to the safety and security of the locality.	YES
CL51 Front Fences and Walls	NO	No Comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	No Comment	N/A
CL53 Signs	NO	No Comment	N/A
CL54 Provision and Location of Utility Services	YES	The site is satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage. The development meets the requirements of Clause 54 of WLEP2000.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	N/A
CL56 Retaining Unique Environmental Features on Site	YES	There are no unique or significant environmental features located on the subject site such as naturally exposed rock outcrops, remnant bushland or natural watercourses. Council records do not indicate that the subject site contains any threatened flora or habitat for fauna species and as such, the proposed development is considered satisfactory in addressing the objectives of this General Principle.	YES
CL57 Development on Sloping Land	YES	The proposal is designed to minimise disturbance of the site and respond to the topography by stepping down the slope and minimising cut/fill.	YES
CL58 Protection of Existing Flora	YES	The Development is sited and designed to minimize the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species and is satisfactory in addressing the General Principle.	YES
CL59 Koala Habitat Protection	NO	No Comment	N/A
CL60 Watercourses & Aquatic Habitats	NO	No Comment	N/A
CL61 Views	YES	Three objections were received with regards to view loss. This General Principle is addressed at the end of the General Principle table.	YES
CL62 Access to sunlight	YES	The provisions of Clause 62 provides that development is not to unreasonably reduce sunlight to surrounding properties specifically sunlight, to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9am and 3pm on June 21, and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by development by more than 20%. In this regard, the submitted shadow analysis indicates overshadowing to adjoining properties as follows:- The submitted shadow analysis indicates that the proposed development will only impact the adjoining land to the south (including No. 87 Aubreen Street). Calculations based on the submitted analysis indicate that the proposed development on land at No. 89 Aubreen Street will overshadow an additional 40 sqm of the rear yard of No. 87 Aubreen Street between 9am and noon on	YES

Application Determination Panel Report to meeting held on 2 April 2009

General Principles	Applies	Comments	Complies
		<p>June 22. This is where the loss of sunlight is at its greatest, however, it should be noted that less than 50% of the principal private open spaces are affected by the proposed development. With regard to the shadow impact at 9am, noon and 3pm on 22 June, the proposal provides a more site responsive design and additional setbacks to that of the existing dwelling. Though slightly increasing the density and level of development on the subject site, the shadow analysis of the proposal will actually sustain the same level of existing overshadowing to the eastern section of the rear yard of No. 87 Aubreen Street.</p> <p>As noted above the extent of the overshadowing to adjoining properties is considered to satisfy the provisions of Clause 62 as the development will not adversely affect the impact to the adjoining lands against that of the existing structure, in addition the overshadowing is considered to be minor in its extent and duration. The proposed development does not unreasonably reduce sunlight to surrounding properties.</p> <p>The development does not unreasonably reduce sunlight to surrounding properties. It is considered that reasonable and equitable level of sunlight is maintained and the development is satisfactory in addressing the General Principle.</p>	
CL63 Landscaped Open Space	YES	For a detailed discussion including merit assessment and Clause 20 Variation to the Landscaped Open Space Built Form Control, refer to built form controls section in this report. The proposal increases the landscape open space on the site by the removal of the existing garage, shed and concrete in the rear garden which will provide more usable landscaped open space within the rear garden and create a greater sense of openness when viewed from adjoining properties.	YES
CL63A Rear Building Setback	YES	<p>The works provide numerical compliance with the development standard of 6m, providing a rear building setback of 6m to the deck and 8.8m to the rear building line, providing separation between the properties at the rear.</p> <p>The proposed development will be built in a similar location as to the existing rear section of the existing building. The removal of the existing garage and shed at the rear will open up the rear garden and will improved the openness of the rear garden when viewed from the adjoining properties, accordingly, the proposal is considered to satisfy the intent of this General Principle.</p>	YES
CL64 Private open space	YES	<p>The proposal provides greater than 60m² private open space with dimensions of greater than 5m. Within the area to the rear of the existing dwelling, approximately 45sqm is set apart for private use, is directly accessible from the ground floor living area and receives not less than 2 hours of sunlight between 9am and 3pm on 22nd June.</p> <p>In addition, the proposed first floor timber deck provides for approximately 14sqm of private open space, however, this is not located at ground level. Furthermore, the area identified as private open space provides 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> <p>Accordingly, the proposal is considered to satisfy the intent of this General Principle.</p>	YES
CL65 Privacy	YES	This General Principle seeks to ensure that development does not cause unreasonable direct overlooking of	YES

Application Determination Panel Report to meeting held on 2 April 2009

General Principles	Applies	Comments	Complies
		<p>habitable rooms and principle private open spaces of other dwellings.</p> <p>The proposed development increases the existing building height and incorporates a new window to the southern elevation. A timber deck is proposed off the first floor family room and measures approximately 14sqm in floor area, with 10sqm being usable area.</p> <p>The submissions received raised visual and acoustic privacy concerns over the proposed first floor east-facing timber deck. The proposed deck is proposed to be at RL99.85, and the rear adjoining neighbour's dwelling at No. 84 Idaline Street is located 23 metres from the subject site's proposed development. The rear adjoining neighbour, at No. 84 Idaline Street has an existing swimming pool that abuts the rear boundary fence shared with the subject site.</p>  <p>View from existing ground level. A similar RL of the proposed new ground floor rumpus. Photo taken 3 March 2009.</p> <p>With the proposed first floor east-facing timber deck located no less than 23 metres to No. 84 Idaline Street, is considered satisfactory distance in maintaining a reasonable level of privacy between dwellings. The deck is located 6m from the rear boundary which complies with Council's rear setback controls. The proposed deck usable area of the deck is 10sqm which is not a large area which will limit the use of the area and minimise noise and privacy impacts upon neighbours.</p> <p>Privacy has been raised by adjoining neighbours on the south and north as an issue and privacy screens along the northern boundary would reduce privacy issues however it would also result in further view loss to the properties to the south. The deck is setback 6m from the southern boundary which is adequate separation and a privacy screen is not necessary on the southern boundary of the deck.</p> <p>Consequently, it is considered that the proposed development does not cause unreasonable direct overlooking of habitable rooms. There will be overlooking to the rear gardens of the adjoining properties however this occurs currently due to the orientation of the properties towards to the water views and topography of the area (refer to figure. 10 showing the adjoining first floor terrace area at No. 91 Aubreen Street) and the</p>	

Application Determination Panel Report to meeting held on 2 April 2009

General Principles	Applies	Comments	Complies
		narrow lot sizes. Accordingly, the proposal is considered satisfactory in addressing the objectives of this General Principle.	
CL66 Building bulk	YES	The development is considered to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and does not visually dominate the street or surrounding spaces. The development is consistent with the predominant pattern and scale of development in the immediate locality. Furthermore the proposal maintains the visual continuity and pattern of buildings and does not result in any adverse impacts to adjoining properties. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES
CL67 Roofs	YES	The proposed roof form of the upper storey addition consists of low pitched skillion elements, clad with colourbond corrugated metal and is considered to complement the local skyline, providing integration with the architectural style of the dwelling, with a level of visual interest and articulation and is considered to appropriately respond to the site topography. It is considered that the roof form provides visual interest by articulating elements, integrating with the architectural design of the dwelling and with the roof forms of the existing adjoining dwellings. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES, subject to approved plans
CL68 Conservation of Energy and Water	YES	The development incorporates features into the design that are consistent with energy and water use conservation, to provide a more favourable environmentally sustainable development. The imposition of a condition of consent will ensure the commitments made on the BASIX certificate submitted with the application are implemented in the construction of the building works. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES, subject to conditions.
CL69 Accessibility – Public and Semi-Public Buildings	NO	No Comment	N/A
CL70 Site facilities	YES	The site contains adequate space for general waste and recycling storage and open air clothes drying facilities which will be suitably screened from the street and is therefore considered acceptable in this regard. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES
CL71 Parking facilities (visual impact)	YES	The site currently provides for a hard car-standing area. This element is incorporated into the design of the alterations and additions and does not result in any alteration to the existing carparking facilities. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES, subject to conditions.
CL72 Traffic access & safety	YES	The site is located on a local road network. Accordingly, the traffic using this part of Aubreen Street would be generally small volumes of local traffic. The proposed works will not change the existing traffic access and safety.	YES

Application Determination Panel Report to meeting held on 2 April 2009

General Principles	Applies	Comments	Complies
		Accordingly, the proposal is considered to satisfy the intent of this General Principle.	
CL73 On-site Loading and Unloading	NO	No Comment	N/A
CL74 Provision of Carparking	YES	There is no alteration to the existing provision for carparking on the site. Two (2) car spaces will be provided in the proposed garage, satisfying the parking requirements of Schedule 17 of the Warringah LEP 2000. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES
CL75 Design of Carparking Areas	YES	The proposed works have been designed to provide safe manoeuvring opportunities for vehicles on-site and satisfying the requirements of this general principle. There is no alteration proposed to the existing parking facilities, maintaining the existing vehicle crossing and driveway. As such, no further consideration of the merit of the proposal is required under this General Principle.	YES, subject to conditions.
CL76 Management of Stormwater	YES	The proposed works are fully contained over the existing building footprint. As such, there is no significant increase to the net impervious surface area from the proposed alterations and additions. Accordingly, On-site Stormwater Detention (OSD) is not required. The subject site maintains an adequate provision of landscaped open space so as to allow for the infiltration of stormwater runoff. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES
CL77 Landfill	NO	No Comment	N/A
CL78 Erosion & Sedimentation	YES	Development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site is considered satisfactory to meet the requirements of Clause 78 of WLEP 2000. Accordingly, the proposal is considered to satisfy the intent of this General Principle.	YES
CL79 Heritage Control	YES	A site inspection and desktop GIS study revealed that the site has no local or state heritage significance, nor is located in a heritage conservation area. Accordingly, with regard to the intent of this General Principle, no further consideration of the merit of the proposal is required.	YES
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	N/A
CL81 Notice to Heritage Council	NO	Repealed	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No Comment	N/A

Application Determination Panel Report to meeting held on 2 April 2009

Clause 61 - View Loss

It must be noted that the previous Development Application DA2001/1841 was refused on 2 July 2002. Since September 2003, the judgements of the Commissioners of the Land and Environment Court changed so that they included planning principles. One of these planning principles included a view loss Planning Principle with a 4-part test for view loss assessment.

At the time of assessment of DA2001/1841 in 2002, the Planning Principle for view loss did not form part of the view loss assessment under Clause 61 – Views of the General Principles. Although, it is not correct to say that in the past development assessments especially prior to 2003 did not assess view loss, more so the planning principle provided by NSW Land and Environment Court, provided more clarification and detail to help in the assessment of view loss when assessing Development Applications.

The following is a view assessment undertaken in accordance with the four (4) step process adopted by Commissioner Roseth in the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*:

e.) Nature of the views to be affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

The subject site is located on No. 89 Aubreen Street, where properties to the south enjoy views north across side and east over rear boundaries.

Three view loss objections have been received from No. 87, 85 and 83 Aubreen Street. No. 87 Aubreen Street raised an objection with regards to the future development potential of the site. Currently there are no views over the subject site that will be impacted upon from No.87 Aubreen Street as it is a single storey house set further back than the subject site, approx. 18m from the rear boundary.

No. 85 Aubreen Street has a corner window at first floor level at the rear of the property, which has northern views over both No. 87 Aubreen Street and the subject site too long distant headland. There are partial water views to the north over the rear boundary from the same window. There is an external staircase landing that has north and eastern views to the water are also available however this is not regarded as a balcony or deck.

No. 83 Aubreen Street has long distance views of a headland to the north from the middle of the rear deck and partial water views to the east from the kitchen and the deck. The eastern views will not be impacted upon by the proposal.

It must be noted that the existing rear building line of the subject site is set closer to the rear boundary than the adjoining properties at No. 93, 91, 87, 95 and 83 Aubreen Street. Assessment of potential view loss was conducted on 3rd and 25th March 2009, and, the four step process was conducted.



Figure 4. Existing view across the rear yards looking north from the deck at No. 83 Aubreen Street. Subject site is in background, with blue tarpaulin covering the southern side boundary.



Figure 5. Existing long distance eastern views to the ocean from the living room of No. 85 Aubreen Street which will be retained.

f.) What part of the property affected the views are obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.



Figure 6 and 7. Existing view across the rear yards looking north from No. 85 Aubreen Street, taken from a sitting position in the living/dinning room area. Subject site is in background over the boundary of No. 87 Aubreen Street, with blue tarpaulin covering the southern side boundary. Photo taken 3 March 2009.

The views from No. 85 Aubreen Street are enjoyed from both a sitting and standing position from the first floor's corner living room window (see above). There are direct eastern views over the rear boundary to the Pacific Ocean and these views will not be impacted upon by the proposal (refer to figure 5). There are north eastern views to the Pacific Ocean over the rear garden of both No. 87 Aubreen Street and the subject site that will not be impacted upon by the proposal. The long distant views to the north from the corner living room window from No. 85 Aubreen Street over the side boundary of No. 87 Aubreen Street and the subject site will be impacted upon by the proposal (refer to figure 7 and 10).

Application Determination Panel Report to meeting held on 2 April 2009

No. 83 Aubreen Street has views from the rear deck to the east and north. There is no impact to the views to the east from either the kitchen or the rear deck due to the proposal. There are views from the middle of the rear deck over the side boundaries to the north over No. 85, 87 Aubreen Street and the subject site to the long distant headland views (see below).



Figure 8 – View from the kitchen of No. 83 Aubreen Street.



Figure 9 – View from deck of No.83 Aubreen Street.

Retention of the northern long distant views side views from both No. 83 and 85 Aubreen Street are over the side boundaries of a number of properties and are harder to maintain as per the Planning Principle.

g.) Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".



Figure 10. Existing view from No. 85 Aubreen Street living room. The existing building ridge line for the subject site is RL 100.43. The proposed new upper storey addition ridge line is RL 103.25. The approximate height of the adjoining neighbour's ridge line (No. 91 Aubreen Street) is RL103.29. Note: All ridge line points are taken from subject site's survey plan.

Application Determination Panel Report to meeting held on 2 April 2009

The proposal will reduce the northern long distant views from the living room window of No. 85 Aubreen Street however the water view to the east will not be impacted upon by the proposal. It is noted that if No.87 Aubreen Street in future proposed a complying development 6m from the rear boundary and 8.5m in height the views from No. 85 and 83 would be significantly affected.

The proposal will also reduced the long distant views to the north from the deck of No. 83 Aubreen Street however views to north east and east will be retained. The compliant design does allow for view sharing as it does not result in the complete loss of water views. It is recommended by condition to delete the roof of the deck to open up the views across the subject site.



Figure 11. Existing view from No. 89 Aubreen Street's rear yard, looking north towards No. 91 and 93 Aubreen Street, where existing rear decks and balconies enjoy views to the north and east towards the Pacific Ocean. Photo taken 3 March 2009.

h.) Reasonableness of the proposal that is causing the impact.

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Notwithstanding, the proposed numerical non-compliance with the Side Setback and Landscaped Open Space Built Form Control, the proposed development maintains compliance with all other relevant Built Form Controls. The design of the proposed rear addition to the existing dwelling has been designed to take in to account the water views available. The height of the proposal is 6.37m which is significant lower than the maximum 8.5m height control. The rear building line of the proposed rear addition is setback 8.8m from the rear boundary with the proposed open deck structure setback 6m from the rear boundary.

A more skillful design by placing the addition closer to the front of the property would minimise view loss to the surrounding properties however it would reduce the applicant's ability to view the same water views. The proposal does not result reducing the developable potential of No. 87 Aubreen Street and does not result in a complete loss of water views to No. 83 or 85 Aubreen Street.

Application Determination Panel Report to meeting held on 2 April 2009

Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. Given the non-compliance relates to the side setback of the single storey garage which has no impact upon views, it is considered that the development is reasonable and allows for a degree of view sharing.

Accordingly, it is considered that the development is satisfactory in addressing the objectives of this General Principle.

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

Two (2) car parking spaces of satisfactory dimensions is maintained within the existing housing arrangement, satisfying the requirements of Schedule 17.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft Environmental Planning Instruments to considered in relation to this application.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan 2006

The development application was lodged on 27 January 2009 as such is subject to the application of Council's Section 94A Development Contributions Plan adopted by Council on 13 June 2006 and became effective on 17 July 2006.

The Section 94A Contribution is calculated in the table below:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$	181,700.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.45%	\$818	Rams
S94A Planning and Administration	0.05%	\$91	Rams
Total	0.5%	\$909	

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

Application Determination Panel Report to meeting held on 2 April 2009

The proposal is considered to be consistent with the desired future character of this locality given the consistency with the visual pattern and predominant scale of detached housing within the existing established streetscape. Notwithstanding the minor numerical non-compliance to the Landscaped Open Space and Side Setback Built Form Controls, the proposal is considered to meet the requirements of the Built Form Controls and complies with the overall height and rear setback and, furthermore satisfactorily addresses the General Principles of Development Control, therefore is considered an acceptable development in this regard.

The submissions received during notification have been addressed under the Notification and Submissions section of this report and furthermore under General Principles of Development Control. The issues regarding visual privacy from the east-facing first floor timber deck have been dealt with. Other issues raised, such as view loss, have also been taken into consideration and relevant conditions including the removal of the roof above the deck, have been imposed in response to assessment issues.

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, subject to conditions.

RECOMMENDATION (APPROVAL)

- A. That the Development Application No: DA2009/0085 for the alterations and additions to an existing dwelling, at Lot 3 DP 33000, 89 Aubreen Street Collaroy Plateau NSW 2097, be approved subject to the attached Notice of Determination.
- B. That pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, the Council vary the provisions of Section 95 (1) so this consent will lapse three (3) years from the date in which it operates, and the applicant be advised accordingly.

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans And Supporting Documentation

The development 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	Dated	Prepared By
DRWG No. 280920	September 2008	Knicol Pty Ltd

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.

Application Determination Panel Report to meeting held on 2 April 2009

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. Demolition of Extra Fabric

Alterations to, and demolition of the existing building shall be limited to that shown on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the approved development.

4. New Development Application Required

This consent is for alterations and additions to the existing building only. If during the course of certification, demolition or construction, the remaining fabric of the building is removed or demolished a new development application may be required and relevant planning controls including BASIX may apply.

Reason: To ensure compliance with the approved plans.

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

5. BASIX Certification

The development shall fully comply with the schedule of BASIX Commitments. 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).

6. 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.

7. Roofing Materials - Reflectivity

The colourbond roof shall be medium to dark in colour in order to minimise solar reflections to neighbouring properties. The colourbond 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.

Application Determination Panel Report to meeting held on 2 April 2009

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

8. Section 94A Contribution

\$909 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		\$	181,700.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.45%	\$818	Rams
S94A Planning and Administration	0.05%	\$91	Rams
Total	0.5%	\$909	

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.*

9. Development/Construction Security Bond

A bond (determined from cost of works) of \$1000 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.*

10. Deletion of the roof over the first floor timber deck

No consent is granted for the roof over the first floor timber deck. The roof over the first floor timber deck must be deleted from the approved plans. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To encourage a reasonable sharing of views across adjoining neighbours' properties.*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. Excavation/Building Works

No excavation or building works shall be carried out until a Construction Certificate has been issued.

Reason: *To ensure compliance with statutory provisions.*

12. 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.*

13. 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.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Aboriginal Heritage

If in undertaking excavations or works, any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: *Aboriginal Heritage Protection.*

15. 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.*

16. Demolition Works

All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the WorkCover Authority, in accordance with all relevant Acts, Regulations and Australian Standards.

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

- Australian Standard AS2601.2001 - Demolition of Structures

Reason: *To ensure a satisfactory standard of demolition works.*

Application Determination Panel Report to meeting held on 2 April 2009

17. 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.*

18. 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.*

19. Removal of Extra Fabric

Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained. 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 compliance with the terms of this development consent.*

20. 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*

21. 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.*

22. 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.*

23. Prohibition on Use of Pavements

No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without prior Council Approval.

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

Application Determination Panel Report to meeting held on 2 April 2009

24. Silt & Sediment Control

Provision shall be made throughout the period of demolition / Excavation & Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

Reason: *To avoid siltation to adjoining properties and waterways.*

25. 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.*

26. Removal of Friable Asbestos

Anyone who removes, repairs or disturbs friable asbestos material must hold a current friable asbestos removal licence. Prior to the commencement of work a site-specific permit approving each friable asbestos project must be obtained from WorkCover.

Reason: *To comply with WorkCover requirements*

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

27. 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).*

28. 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.*

29. Asbestos Clearance Certificate

Prior to issue of an Interim/Final Occupation Certificate for building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person must be submitted to the Principal Certifying Authority (and a copy forwarded to Council) for the building work certifying the building has asbestos that is presently deemed safe.

Application Determination Panel Report to meeting held on 2 April 2009

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

(Note: Further details of licensed asbestos waste disposal facilities can be obtained from the Department of Environment and Climate Change website at
<<http://www.environment.nsw.gov.au/index.htm>>

Reason: *For protection of environment and human health and to ensure compliance with the legislation.*

