

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 05 June 2014

17 Wyndora Avenue Freshwater - Demolition works and construction of a dwelling house

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2014/0045
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 56 DP 663550 , 17 Wyndora Avenue FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	Michael Jonathan Leung Tiffany Victoria Gee
Applicant:	Michael Jonathan Leung
Application lodged:	20/01/2014
Application Type:	Local
State Reporting Category:	Residential - Single new detached dwelling
Notified:	30/01/2014 to 14/02/2014
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	5
Recommendation:	Approval
Estimated Cost of Works:	\$ 455,027

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and

Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

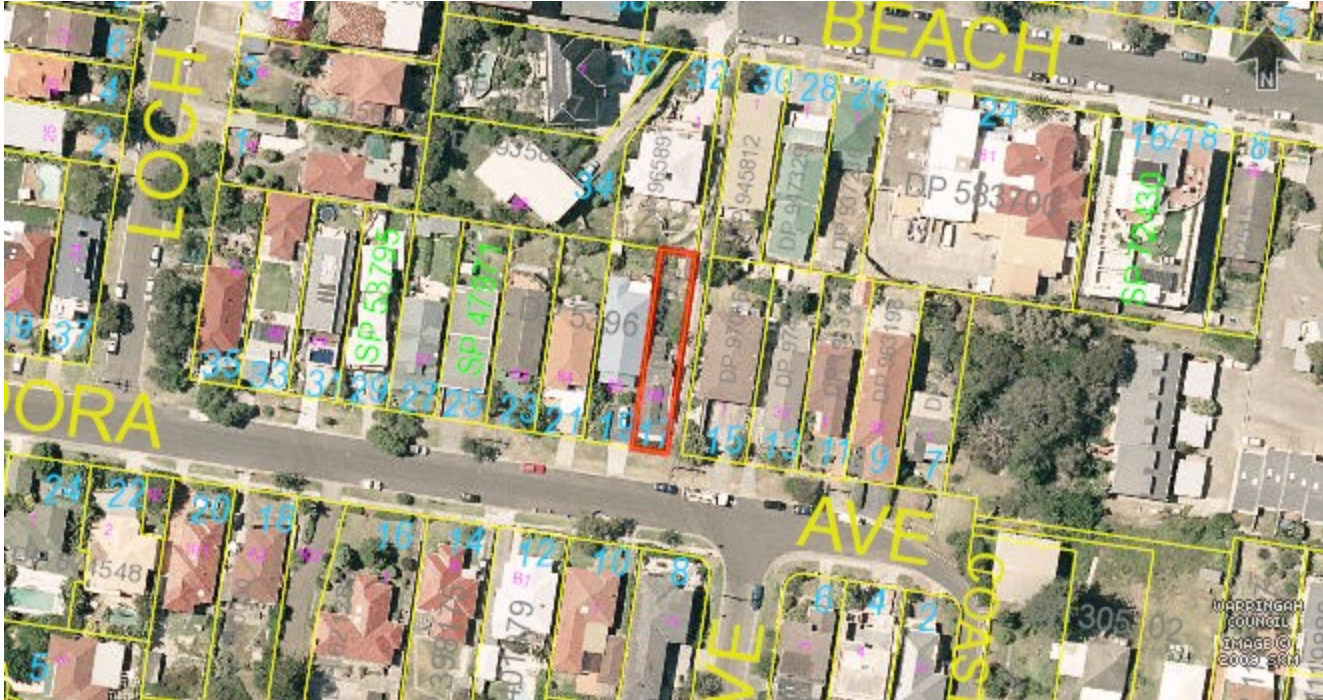
SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 56 DP 663550 , 17 Wyndora Avenue FRESHWATER NSW 2096
Detailed Site Description:	The subject site consists of a single allotment located on the northern side of Wyndora Avenue. The site is legally known as Lot 56 in DP 663550, No. 17 Wyndora Avenue, Freshwater. The site is regular in shape with a frontage of 7.01m along Wyndora Avenue and a depth of 40.235m. The site has a surveyed area of 282m². The site is located within the R2 Low Density Residential zone and accommodates a single fibro dwelling house. Surrounding development consists of a mix of single and two storey dwelling houses in landscape settings. The site falls from the street to the rear of the property approximately 3.75m, The site is bounded by a public pathway to the east.

Map:



SITE HISTORY

DA2007/0709

New Dwelling Following Demolition of Existing.

The application was approved by Council on 15 January 2008.

PLM2013/0109

The pre lodgement meeting was held to discuss the demolition of the existing dwelling house and construction of a new dwelling house.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the demolition of the existing dwelling house and construction of a new dwelling house.

Specifically the works involve:

Lower Ground Level (RL 32.40 - RL 32.55)

- Two bedrooms;
- Store room;
- Laundry
- Bathroom; and
- Sitting room.

Ground Floor Level (RL 35.15 - RL 35.45)

- Bathroom;
- Kitchen;
- Dining and living room; and
- Balcony.

First Floor Level (RL 38.35 - RL 38.65)

- One bedroom;
- Walk in robe and ensuite;
- Rear balcony; and
- South facing deck.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under 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 “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This Clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the

Section 79C 'Matters for Consideration'	Comments
	consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This Clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This Clause is not relevant to this application.
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 Warringah Development Control Plan section 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 proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Julio De Laffitte	15 Wyndora Avenue FRESHWATER NSW 2096
Tracey Lee Walker William Walker	12 Wyndora Avenue FRESHWATER NSW 2096
DFP Planning Consultants	PO Box 230 PENNANT HILLS NSW 1715
Graham Frederick Matthew Rigoni Julie Clare Rigoni	2 / 25 Wyndora Avenue FRESHWATER NSW 2096
Rui Qiang Qiu Shao Xia Lu	P O Box 77 DEE WHY NSW 2099

Note: The submission from DFP Planning Consultants is made on behalf of the owners of No. 19 Wyndora Avenue, Freshwater.

The following issues were raised in the submissions and each have been addressed below:

- **Insufficient carparking**
- **Non-compliance with landscaped open space, side boundary envelope and wall height controls and clarification of 'landscaped setting'**
- **Privacy Impacts**
- **View Loss**
- **Roof design**

The matters raised within the submissions are addressed as follows:

- **Insufficient carparking**

Concern is raised that insufficient car parking is provided for the development and concern is also raised in relation to the loss of on street car parking.

Comment:

This matter is addressed in detail elsewhere within this report (C3 - 'Parking Facilities' under the Warringah Development Control Plan).

In summary, the proposed off street car parking is considered to be adequate given the constraints on the site (narrow width and no existing off street car parking).

The proposal is considered to be an improvement for the site in terms of off street car parking as the existing site provides no off street car parking and is acceptable in this instance. Further, whilst the

proposal only provides 1 formal car space, two cars are able to be accommodated within the front setback in a stacked and informal arrangement without dominating the street frontage.

Therefore, this matter does not warrant refusal of the application.

- **Non-compliance with landscaped open space, side boundary envelope and wall height controls and clarification of 'landscaped setting'**

Concern is raised in relation to the development's non-compliance with the Wall Height, Side Boundary Envelope and Landscape Open Space controls. A submission has also asked for clarification of the term 'landscaped setting' as referred to in the pre-lodgement minutes of PLM2013/0109.

Comment:

This matter is addressed in detail elsewhere in this report (refer to B1 - 'Wall Height', B3 - 'Side Boundary Envelope' and 'D1 - Landscaped Open Space' under the Warringah Development Control Plan).

In summary, it was found that the development achieved consistency with the underlying objectives of the controls and the zone and that the variations are supported.

In relation to the clarification of the term 'landscaped setting', there is no definition of 'landscaped setting' within the Warringah Local Environmental Plan 2011 or Warringah Development Control Plan, rather it is assessed on a merit basis having regard to the the underlying objectives of the D1 - 'Landscaped Open Space' control and the proposal's relationship with the landscape character of the local area.

As detailed above, the proposed development achieves consistency within the underlying objectives of the D1 - 'Landscaped Open Space' control and the variation is supported.

Therefore, these matter does not warrant the refusal of the application.

- **Privacy and Amenity Impacts**

Concern is raised in regards to potential privacy and amenity impacts raised from No. 17 and No. 19 Wyndora Avenue.

Comment:

Overlooking, Visual Privacy and Amenity Impacts

Concern:

Concern is raised from the owners of the adjoining properties to the east and west of the subject site (No. 15 and No. 19 Wyndora Avenue) in regards to privacy and amenity impacts. The concerns raised from No. 15 Wyndora Avenue is that the balcony areas of the proposed dwelling provide the opportunity for overlooking to occur.

The concerns raised from No. 19 Wyndora Avenue is that the location of the ground floor balcony in its proximity to the family, living, dining and kitchen areas of the dwelling at No. 19 Wyndora Avenue will give rise to significant privacy (visual and acoustic) and amenity impacts.

Response:

This matter is addressed in detail elsewhere in this report (D8 - 'Privacy' under the Warringah Development Control Plan).

In summary, the proposal, as conditioned, will maintain a reasonable level of privacy and amenity to adjoining properties.

The established residential character of the area, narrow width of the subject site, topography of the site, orientation of living areas of the proposed dwelling and adjoining dwellings to obtain the substantial views available and the location of the adjoining properties balcony areas and the proposed balcony areas of this application make it very difficult to mitigate and prevent some degree of overlooking or at least cross-viewing between dwellings.

In this regard, adequate physical separation is achieved between the subject site and the adjoining property to the east, No. 15 Wyndora Avenue, to ensure no unreasonable overlooking occurs. The properties are separated by adequate setbacks and the adjoining public pathway which provides a buffer between the two properties.

In regards to the concerns raised by the owners of No. 19 Wyndora Avenue, the assessment of this application has identified the potential for some level of privacy and amenity impacts on this property.

This matter is discussed in further detail within the D8 - 'Privacy' section of this report however in summary, after a detailed assessment including a joint site inspection with the owners and DFP Planning Consultants, a condition has been included in the recommendation of this report to increase the setback of the northern most projection of the primary walls of the dwelling house and the northern most projection of the ground floor balcony to achieve a more reasonable privacy and amenity outcome for the adjoining property.

It is noted that a supplementary submission was forwarded to Council after the joint site inspection which suggests a number of changes to the design. The suggested design changes have been reviewed and it is not considered that the full extent of those design amendments are required. Hence the amendments contained in the conditions of consent should prevail.

A condition has also been included requiring the balustrade of the first floor balcony to be erected on the inside of the balcony to ensure the gravel surface is non-trafficable, therefore increasing privacy between the properties.

Subject to the proposed conditions, this matter does not warrant refusal of the application.

Noise

Concern is raised that the first floor balcony is large and conducive to high usage for entertaining purposes.

The first floor balcony is located off the master bedroom and stepped in from the outer-edges of the upper floor (first floor level) to reduce the visual bulk of the upper floor and maintain a reasonable level of amenity and privacy to adjoining properties. The site is located within an established residential area and given the location of the balcony off the master bedroom it is not expected to generate unreasonable noise impacts between adjoining properties.

Given the location of balcony off a master bedroom and the stepping-in of the trafficable area the location and size of the balcony is considered reasonable.

However, a condition has been included in the recommendation of this report requiring the installation of the first floor balcony balustrade to be located on the inside edge of the trafficable balcony area to ensure that the area beyond the balcony provides additional separation to the adjoining properties and reduces potential overlooking.

Subject to the proposed condition, this matter does not warrant refusal of the application.

- **View Loss**

Concern is raised in relation to the loss of views from No. 12 and No. 19 Wyndora Avenue.

Comment:

This matter is addressed elsewhere in this report (refer to Clause D7 - 'Views' under Warringah Development Control Plan).

In summary, it was found that the development achieves consistency with the planning principles outlined within the Land and Environment Court Case of *'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140'* and that the extent of qualitative impact upon view sharing is considered to be negligible and the proposal is reasonable in this instance.

Therefore, this matter does not warrant the refusal of the application.

- **Roof design**

Concern is raised that pitched roof dwellings dominate the locality and that the proposed roof design (flat roof) is out of character for the area.

Comment:

The proposed flat roof reduces the bulk and scale of the building when viewed from adjoining public and private properties. Whilst the predominate roof design is pitched roofs, the roof design is consistent with that of contemporary and modern architecture that is present within the locality.

The roof design reduces the impact on the streetscape and adjoining properties in terms of view loss, height, bulk and scale and will not have an adverse impact on the Wyndora Avenue streetscape.

Accordingly, the proposed roof form is acceptable in this instance.

Therefore, this matter does not warrant refusal of the application.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Development Engineers	The development proposes to dispose the drainage from the site via an adjoining public pathway to Beach Street. No Engineering objection is raised to the proposal subject to complying with engineering conditions
Landscape Officer	The vegetation to be removed on site is not considered significant. No objections to removal subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 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

A BASIX certificate has been submitted with the application (see Certificate No.516053S dated 28 November 2013).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	40	40

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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 5.0m 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 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A
Height of Buildings:	8.5m	7.8m	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.35m	2%	No
B3 Side Boundary Envelope	5m	Eastern elevation: Breach of a maximum height of 1.2m for a maximum length of 10.15m.	N/A	No
		Western elevation: Breach of a maximum height of 0.995m for a maximum length of 8.6m.	N/A	No
B5 Side Boundary Setbacks	0.9m	East: Lower ground floor: Nil. Ground and first floor: 0.9m.	N/A 100%	Yes No
		West: 0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6m	7.795m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	26.9% (76m ²) Note: A condition of consent included in the recommendation of this report increases the calculable landscaped open space by	32.65% or 36.8m ²	No

	6.25m2 resulting in a total landscaped area of 82.25m2 or 29.16% of the total site area.	
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***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
R2 Side Boundary Envelope Exceptions	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
Side Setbacks - R2	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 - All other land in R2 Zone	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
All other land under R2	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Residential accommodation - one or two dwellings	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The control requires a maximum wall height of 7.2m. The proposed development provides a maximum wall height of 7.4m, contained wholly within the rear section of the upper floor (first floor). The non-compliance measures 1.65m in length.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.***

Comment:

The proposed development will have a minimal visual impact when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

Notwithstanding the technical non-compliance with the control, the variation is minor and does not result in any visual impact. The first floor of the development, where the non-compliance is contained, is articulated and includes open balcony and deck areas to reduce the visual bulk and scale of the development.

Further, the development maintains compliance with the Height of Buildings Development Standard and therefore has minimal visual impact.

- ***To ensure development is generally beneath the existing tree canopy level***

Comment:

Whilst there is no significant existing tree canopy, the proposed development maintains a human scale as it complies with the overall building height.

- ***To provide a reasonable sharing of views to and from public and private properties.***

Comment:

The proposal provides a reasonable sharing of views to and from public and private properties.

As detailed within the D7 - 'Views' section of this report, the development achieves consistency with the planning principles outlined within the Land and Environment Court Case of *'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140'* and the extent of qualitative impact upon view sharing is considered to be negligible and the proposal acceptable in this instance.

- ***To minimise the impact of development on adjoining or nearby properties.***

Comment:

The proposed development allows for a reasonable level of amenity, solar access and privacy to be maintained for adjoining and nearby dwellings.

The matter of privacy is referred to in detail elsewhere within this report (refer to D8 - 'Privacy' under the Warringah Development Control Plan).

- ***To ensure that development responds to site topography and to discourage excavation of the natural landform.***

Comment:

The proposed development responds to the sites topography. Whilst there is cut and fill proposed, the building is progressively stepped and articulated as the site falls to the rear. The level of cut does not significantly change the existing topography of the site and will allow the bulk and scale of the building to be minimised.

- ***To provide sufficient scope for innovative roof pitch and variation in roof design.***

Comment:

The proposed roof design is innovative in its design and pitch. The proposal provides a flat roof, replacing the existing pitched roof dwelling.

This allows for well articulated roof forms which negate further view, bulk and scale impacts on adjoining dwellings and provides an overall building height that is compliant. The flat roof is reflective of contemporary and modern architecture within the locality.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

Eastern elevation:

- Breach of a maximum height of 1.2m for a maximum length of 10.15m.

Western elevation:

- Breach of a maximum height of 0.995m for a maximum length of 8.6m.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To ensure that development does not become visually dominant by virtue of its height and bulk.***

Comment:

Notwithstanding the technical non compliance with the control, the variation is considered satisfactory as the first floor of the development provides compliant setbacks to the side and rear boundaries and a setback to the front boundary that is consistent with adjoining and surrounding development.

The upper floor (first floor) provides articulation in the form of an open and large balcony structure which effectively reduces the perceived height and bulk of the development when viewed from adjoining public and private spaces.

- ***To ensure adequate light, solar access and privacy by providing spatial separation between buildings.***

Comment:

The proposed development allows for a reasonable level of amenity, solar access and privacy to be obtained from adjoining or nearby dwellings. Adequate spatial separation is achieved between buildings to ensure no unreasonable overlooking occurs.

Submitted shadow diagrams demonstrate that a minimum of 50% of the adjoining properties private open space achieves a minimum of 3 hours sunlight during the hours of 9am to 3pm on June 21.

The spatial separation provided between buildings and privacy treatments of windows and balconies allow for a reasonable level of privacy to be maintained between buildings.

- ***To ensure that development responds to the topography of the site.***

Comment:

The development responds to the sloping topography of the site. Areas of excavation are proposed to provide the basement floor level however, the building is progressively stepped as the site falls to the rear including areas of building articulation (open balconies), therefore responding to the topography of the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of non-compliance

The control requires a minimum side boundary setback of 0.9m.

The proposed lower ground floor on the eastern elevation extends to the boundary for a total length of 6.6m.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To provide opportunities for deep soil landscape areas.***

Comment:

The setback of the lower floor to the eastern side boundary removes the ability for areas of deep soil landscaping to be provided within this 6.6mx 0.9m area. Notwithstanding, the assessment of this application has found that adequate areas of deep soil landscaping are provided within the site including planting within the remaining eastern side boundary setback area.

- ***To ensure that development does not become visually dominant.***

Comment:

The non complying portion of the building does not protrude above the ground level and is therefore not readily viewable or add to the visual bulk of the building.

- ***To ensure that the scale and bulk of buildings is minimised.***

Comment:

The non-compliance does not contribute to the scale or bulk of the building as it is located on the lower ground floor below the ground level and is not readily viewable from the adjoining public or private properties.

- ***To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.***

Comment:

The site is adjoined by a public pathway on the eastern boundary. The non complying portion of the building is located on the eastern elevation and extends a total of 6.6m from the southern most projection of the primary building walls.

The non-compliance is contained below the natural ground level and therefore has no impacts upon the privacy, amenity or solar access to adjoining properties.

- ***To provide reasonable sharing of views to and from public and private properties.***

Comment:

The non-complying portion of the building does not protrude above the ground level and therefore does not result in a loss of views and a reasonable sharing of views is maintained to and from public and private properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

A new dwelling house is required to provide 2 car spaces. The proposed development provides 1 car space in the form of a single open carport.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To provide adequate off street carparking.***

Comment:

The development provides the following on-site car parking:

Use	Appendix 1	Required	Provided	Difference (+/-)

	Calculation			
Dwelling house	2 spaces per dwelling	2 spaces	1 space	- 1 space

The existing dwelling house does not provide any off-street car parking and there is no vehicle crossing to the site. The proposed development provides 1 off street car space behind the 6.5m front boundary setback in the form of a single an open carport. It will be possible and practical for another car to be accommodated within the front setback in a informal and stacked arrangement on the driveway.

This is considered to be acceptable in this instance due to the narrow width of the site (7.01m), which if two car spaces where required to be provided would result in car parking areas (i.e. double garage or double carport) dominating the street frontage and resulting in adverse impact on the Wyndora Avenue Streetscape which is not a desirable outcome for the site. As proposed, the provision of off street carparking is a improvement for the site and acceptable in this instance.

- ***To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.***

Comment:

The single and open carport will have minimal visual impact on the street frontage and other public spaces.

- ***To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.***

Comment:

The use of a single and open carport on the narrow subject site ensures that the parking facility does not dominate the street frontage and other public spaces. The open structure allows for a sense of openness to be maintained across the front of the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The control requires a minimum of 40% of the total site area to be landscaped open space.

The proposed development provides 26.9% of the total site area as landscaped open space, a variation of 36.8m² or 32.6%.

Note:

A condition of consent which reduces the size of the rear ground floor level balcony has been included in the recommendation of this report. This condition increases the amount of calculable landscaped open space area on site by 6.25m² resulting in a total landscaped area of 82.25m² or 29.16% of the total site area.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To enable planting to maintain and enhance the streetscape.***

Comment:

The landscape plan submitted with the application (refer to Landscape Plan Issue C prepared by Michael Leung and dated 13/01/2014) indicates that the front, side and rear setback areas will provide landscaping which will act to maintain and enhance the local character, streetscape and improve and soften the visual appearance of the development.

- ***To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.***

Comment:

The site has been altered over the residential history of the allotment. There are no threatened species, significant topographical features or vegetation identified on site.

The landscape plan indicates substantial landscape planting to be introduced to the site in particular within the front setback.

The planting is considered to be a significant improvement and an overall increase on the existing provision.

- ***To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.***

Comment:

Landscaped areas are generally confined to the front and rear setback areas of the site. These areas are of a sufficient size to allow the establishment of low lying shrubs, medium high shrubs and canopy trees that, at a mature age, would be of a size and density to mitigate the height, bulk and scale of the building.

Council's Landscape Officer has reviewed the proposal and raises no objections subject to the inclusion of conditions of consent which are contained within the recommendation of this report which includes replacement planting of two trees from selected Council's Tree Replacement Guide of a minimum pot size of 25 litres to be located within the front setback area. These trees will further assist to mitigate the height, bulk and scale of the building.

- ***To enhance privacy between buildings.***

Comment:

The development includes areas of significant landscaping located within the rear and front boundary setbacks which, in-conjunction with the spatial separation provided between buildings will provide adequate privacy between buildings within this established residential area.

- ***To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.***

Comment:

The proposed development will provide adequate areas of opportunity for outdoor recreation for the dwelling occupants. The rear setback area is largely landscaped providing a turfed and landscaped private open space area for the use of dwelling occupants.

- ***To provide space for service functions, including clothes drying.***

Comment:

The plans do not indicate any areas allocated at ground level specifically for clothes drying. However, it is considered sufficient area is available for service functions such as clothes drying.

- ***To facilitate water management, including on-site detention and infiltration of stormwater.***

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections to the proposed stormwater system subject to conditions included in the recommendation of this report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D7 Views

Merit consideration

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views 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".

Comment to Principle 1:

No. 12 Wyndora Avenue

Views that will be affected by the proposed development are best described as distant views of Curl Curl Beach and distant views of Curl Curl Headland.

No. 19 Wyndora Avenue

Views that will be affected by the proposed development are best described as distant and substantially obstructed ocean views of the Tasman Sea, east of the property. These views are considered to be of low value given the retention of land and water interface, ocean and headland views directly north of the property.

2. What part of the affected property are the views 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".

Comment to Principle 2:

No. 12 Wyndora Avenue

View are obtained across a front boundary and across Wyndora Avenue, in standing and sitting positions from the upper floor (first floor) main bedroom and deck.

No. 19 Wyndora Avenue

Views are obtained across a side boundary in a standing and sitting position from the combined living, dining and kitchen areas.

3. 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”.

Comment to Principle 3:

No. 12 Wyndora Avenue

The physical separation between the two buildings and the views being obtained across a front boundary and road reserve limit the ability and reasonableness for views to be retained.

The proposed development will reduce the distant Curl Curl Beach and headland views currently obtained from the upper floor (first floor level) of this property.

However, the proposal is reasonable in its context in providing a large and open rear deck area which will allow for a view corridor to be maintained over this rear portion of the building.

The increased setback to the northern most primary walls of the upper floor (first floor level) and the large open balcony will ensure some distant beach and headland views over the development will be maintained.

Whilst there is a minor loss of views, given the location of this property and the view corridor that will be maintained across the rear of the site on an oblique angle, the view loss is considered to be negligible.

The development is considered to be reasonable in terms of view sharing.

No. 19 Wyndora Avenue

The extent of view loss is considered to be negligible given the extent of primary views to be retained directly north of the property which include land and water interface views, views of Curl Curl Beach and Curl Curl headland. The minor loss of view east of the site is considered to be a secondary view of low value.

The highly valued and primary views will remain unchanged as a result of the proposed development.

4. 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.”

Comment to Principle 4:

The proposed development maintains compliance with the Height of Buildings Development Standard of 8.5m and compliance with the minimum front, rear and side boundary (with the exception of the eastern side

boundary) setback requirements of the WDCP.

The proposal responds appropriately to the available views through the provision of appropriate view corridors, setbacks and building articulation to ensure highly valued views are retained and the impact on properties in terms of view loss is negligible.

As detailed within Clause 'B3 Side Boundary Envelope' under the WDCP section of this report, the envelope breach does not result in any loss or disruption of view and is supported in this instance.

Overall, the proposal is considered appropriate for the site and acceptable in this instance

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.***

Comment:

The design of the proposed dwelling house has utilised design treatments to reduce any potential privacy impacts on adjoining properties. The effective use of a combination of window designs including the use of highlight or high sill windows along the eastern and western elevations of the building ensures no unreasonable overlooking of the adjoining properties occurs or any direct or close views into windows of adjoining properties.

All of the window openings on the western building elevation have been treated with high sill windows which adequately responds to the relationship of the proposed building with that of the adjoining dwelling to the west.

The upper floor (first floor level) balcony located off the bedroom 1 is setback from the outermost edges of the building footprint approximately 1m from the eastern and western outermost edges of the dwelling footprint and 1.3m from the northern most edge of the dwelling footprint by way of a non-trafficable area treated with a gravel surface. This is considered satisfactory in providing increased and adequate separation between properties to ensure no unreasonable overlooking occurs.

To ensure that the increased setback area is made non-trafficable, a condition has been included in the recommendation of this report requiring the erection of the balustrade on the first floor level to be on in the inside of the gravel surface and to ensure it is setback from the outermost edges of the upper floor building footprint.

The siting of the rear ground floor level balcony will result in a unreasonable visual and acoustic privacy impact on the adjoining property, No. 19 Wyndora Avenue. In this regard, the balcony area is located within close proximity to the combined kitchen, living and dining area and attached balcony of the dwelling at No. 19 Wyndora Avenue and therefore the impacts on this property by virtue of the location of the balcony are unreasonable.

However, it is considered that a minor design change would alleviate these concerns and conditions to this affect has been included in the recommendation of this report. The details of these conditions are outlined within the objective below.

- ***To encourage innovative design solutions to improve the urban environment.***

Comment:

The proposal is innovative in its design with respect of its articulation and contemporary/modern character. The design responds to the moderate slope through the articulation of the building using large and open balcony areas and through the use of a variety of materials and finishes.

Whilst the proposal is innovative in its design, the siting of the rear ground floor level balcony raises concern in relation to potential visual and acoustic privacy impacts for the dwelling occupants of No. 19 Wyndora Avenue. It is considered that a more skillful design an alternative design solution would alleviate these concerns and ensure that a reasonable level of visual and acoustic privacy is maintained to the adjoining property.

Therefore, conditions have been included in the recommendation of this report requiring a increased setback of 1.2m to the northern most primary wall of the dwelling house and to the northern most projection of the rear ground floor balcony and for the erection of a full height privacy screen to be erected on the western edge of the balcony for its entire length. The privacy screen is to be constructed of obscured or opaque glazing to ensure appropriate privacy and acoustic protection for No. 19 Wyndora Avenue.

- ***To provide personal and property security for occupants and visitors.***

Comment:

The proposed development maintains adequate personal and property security through the provision of clear and unobstructed pathways to the dwelling house and the side boundary fencing between the subject site, the adjoining property to the west and the public pathway to the east.

Having regard to the above assessment, it is concluded that the proposed development, as conditioned, is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

E10 Landslip Risk

The site is identified as Landslip Risk Area B on Council's Landslip Risk Map.

In accordance with Council's checklist a Preliminary Geotechnical Assessment of site conditions is required to be submitted with a development application.

However, due to the amount of proposed excavation a full Geotechnical Assessment Report prepared by Douglas Partners and dated October 2013 has been submitted with the application.

A condition has been included in the recommendation for this report requiring compliance with the recommendations and requirements contained within this report.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 455,027		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 4,323
Section 94A Planning and Administration	0.05%	\$ 228
Total	1%	\$ 4,550

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions

contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2014/0045 for Demolition works and construction of a dwelling house on land at Lot 56 DP 663550, 17 Wyndora Avenue, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
2013-01 - Site Plan Issue C	13/01/2014	Michael Leung
2013-02 - Lower Floor Plan Issue C	13/01/2014	Michael Leung
2013-03 - Ground Floor Plan Issue C	13/01/2014	Michael Leung
2013-04 - Upper Floor Plan Issue C	13/01/2014	Michael Leung
2013-05 - Roof Plan Issue C	13/01/2014	Michael Leung
2013-06 - North/South Elevations Issue C	13/01/2014	Michael Leung
2013-07 - East/West Elevations Issue C	13/01/2014	Michael Leung
2013-08 - Section Issue C	13/01/2014	Michael Leung
2013-09 - Landscape Plan Issue C	13/01/2014	Michael Leung

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment	October 2013	Douglas Partners

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

2. Prescribed Conditions

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building

being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

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

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

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming

pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 455,027		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 4,323
Section 94A Planning and Administration	0.05%	\$ 228
Total	1%	\$ 4,550

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.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

5. Bonds

(a) Security Bond

A bond (determined from cost of works) of \$1000.00 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

(b) Construction, Excavation and Associated Works Bond (Drainage)

A Bond of \$7000 as security against any damage or failure to complete the construction of

stormwater drainage works as part of this consent.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

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

6. Submission of Engineering Plans

Engineering plans are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993 The submission is to include four (4) copies of Civil Engineering plans for the design of drainage pipe line within the public pathway which are to be generally in accordance with Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. The Fee Associated with the assessment and approval of the plans is to be in accordance with Council's Fees and Charges. The developer/applicant must lodge with Council a security bond against any damage or failure to complete the construction of the drainage pipe line and associated works as part of this consent is required.

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

Reason: To ensure compliance with Council's specification for engineering works. (DACENC08)

7. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

8. Stormwater Drainage

Construction and maintenance of private stormwater drainage system located within the adjoining pathway that services Lot 56 DP663550 must be maintained by the owner of the lot benefited from the stormwater drainage system.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper

manner that protects adjoining properties. (DACENCPC2)

9. **Trees and / or Landscaping**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Existing trees which must be retained

i) All trees not indicated as removed on the approved plans.

ii) No approval is given for removal or pruning of trees on adjoining properties.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

10. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

11. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC03)

12. **Privacy Screen**

A full height privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the balcony located off the ground floor living room as shown on the approved plans. The privacy screen shall be of obscured or opaque glazing.

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

Reason: In order to maintain privacy to the adjoining / nearby property. (DACPLC06)

13. **Sewer / Water Quickcheck**

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

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

14. **Increased Rear boundary setback (Ground Floor Level)**

The rear setback to the Ground Floor Level is to be increased by 1.2m from 10.695m to 11.895m.

The balcony located off the ground floor living room, as shown on the approved plans, is to be maintained at 2.9m in length and is to have a minimum rear setback of 8.995m.

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

Reason: To ensure a reasonable level of privacy and amenity is maintained to adjoining property. (DACPLCPCC1)

15. **Upper Floor (First Floor Level) Balcony Location**

The balustrade on the upper floor (first floor level) balcony, as shown on the approved plans, is to be installed on the line between the gravel surface and timber balcony area such that the balustrade is setback from the outermost edges of the building footprint.

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

Reason: To ensure the outer gravel area is made non-trafficable and so a reasonable level of privacy is maintained. (DACPLCPCC2)

16. Dilapidation Survey

A photographic survey of adjoining property (being No. 19 Wyndora Avenue, Freshwater) detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate.

This survey is to be prepared by an appropriately qualified person. On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible)

Reason: Proper management of records. (DACPLCPCC3)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. Public Liability Insurance - Works on Public Land

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

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Vehicle Crossings

The provision of normal low vehicle crossing 3.0 metres wide in accordance with Warringah Council Drawing No A4-3330/3 and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

19. Footpath Construction

The applicant shall reconstruct any damaged concrete footpath adjoining the subject site and due to drainage works on the footpath. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's minor works policy
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

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

Reason: To ensure compliance of footpath works with Council's specification for engineering works. (DACENE07)

20. Layback Construction

A layback 3.0 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

21. Notification of Inspections

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements. (DACENE10)

22. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are

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

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

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

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

Reason: Protection of Trees. (DACLAEO3)

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

23. **Required Planting**

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
2	Tree/s selected from Council's Tree Replacement Guide available at www.warringah.nsw.gov.au	Front yard	25 litre

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

Reason: To maintain environmental amenity. (DACLAF01)

24. **House / Building Number**

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

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

Reason: Proper identification of buildings. (DACPLF04)

