

ITEM NO: 17

SUBJECT: DEVELOPMENT APPLICATION NO. X/648/2007 FOR ADDITIONS AND ALTERATIONS TO THE DWELLING INCLUDING WATER TANKS ON LOT 68 DP 13765, NO. 31 TERRYMONT ROAD, WARRIMOO

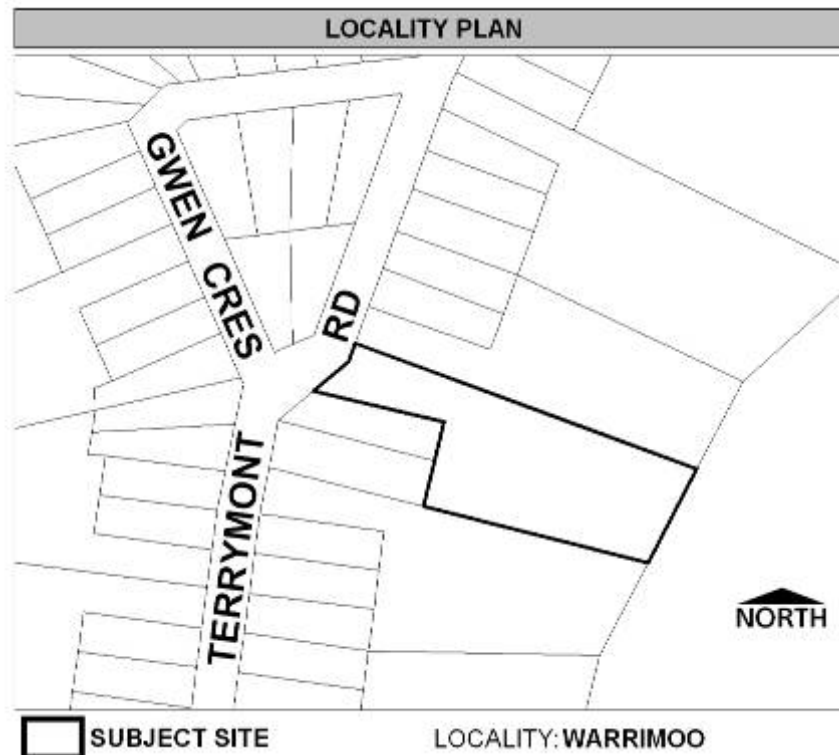
FILE NO: X/648/2007

Recommendation:

That the Development Application No. X/648/2007 for additions and alterations to the dwelling including water tanks on Lot 68 DP 13765, No. 31 Terryfont Road, Warrimoo be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.

Report by Group Manager, Environmental and Customer Services:

Reason for report	The application proposes building work encroaching into an Environmental Protection-Private zone and therefore the determination of the application is outside Council staff delegations.
Applicant	Mr S A Moore
Owner	Mr S A Moore and Mrs N A Moore
Application lodged	29 June 2007
Property address	Lot 68 DP 13765, No. 31 Terryfont Road, Warrimoo



Site description

The subject property is located on the eastern side of Terrymont Road, Warrimoo and is comprised of one allotment having a total area of approximately 5015m².

Local Environmental Plan (LEP) 2005 applies to the property and the front 10.74% of the property is zoned Living – Bushland Conservation zone and the rear 89.26% is zoned Environmental Protection (EP)-Private zone.

The property currently contains a single storey dwelling with a car parking area to the front of the dwelling and a yard to the rear with play equipment and a clothesline.

There is a rock ledge, approximately 14m from the rear of the existing dwelling, which produces a significant drop in the level of the land. The rock ledge has been partially fenced and to the east of the rock ledge the property is in its natural bushland state.

Proposal

It is proposed to construct additions and alterations to the existing dwelling consisting of a family room, 2 bedrooms, deck (with stair access to rear yard) and a subfloor storage area.

The proposed deck and its roof cover will encroach into the EP-Private zone by up to a maximum of 1m. The footprint area of deck and roof cover proposed in the EP-Private zone is approximately 5m².

A stormwater dispersal area is also proposed to be located within the EP-Private zone to serve as a method of disposal for the stormwater overflow from rainwater tanks.

A portion of bedroom 3 and the family room are proposed to be located on land designated as Protected Area-Slope Constraint Area (PA-SCA).

A copy of the plans showing the site area and extent of the development proposed are provided in Attachment 2 to this report.

Development controls

Local Environmental Plan 2005

Zones

Living-Bushland Conservation zone (10.74%)

Environmental Protection-Private zone (89.26%)

Protected Area

Slope Constraint Area (1.49%)

Better Living Development Control Plan.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River.

Notification

The application was notified to adjoining property owners for a period of 14 days from 16 July 2007.

No submissions were received.

Assessment issues

Statutory considerations

Development of land zoned as Environmental Protection-Private.

Development of land designated as Protected Area-Slope Constraint Area.

Development on bushfire-prone land.

Front building setback

1. Local Environmental Plan 2005

Compliance Table

Clause	Standard	Proposed	Compliance
24	Living-Bushland Conservation zone objectives	The proposal complies with the objectives	Yes
30	Environmental Protection-Private zone objectives	The proposal complies with the objectives. Refer to section 2 below for further information.	Yes

Clause	Standard	Proposed	Compliance
32	Permissibility	In the Living-Bushland Conservation zone both a dwelling house and development ancillary to a dwelling house are permissible with Council consent. In the EP-Private zone development ancillary to a dwelling house is permissible with Council consent but a dwelling house is prohibited.	Yes
44	Environmental impact	The proposal will have no adverse impact on significant vegetation communities, the hydrological aspect of the locality or the natural rock ledge on the property.	Yes
45	Protected Area – Slope Constraint	The proposal is partially located on land designated as Protected Area-Slope Constraint Area. Refer to section 3 below for further information.	Yes
56	Stormwater management	The proposal includes the provision of rainwater tanks to collect stormwater. Overflow from the tanks will be directed to a dispersal area located within the EP-Private zone in an existing cleared area.	Yes
60	Character and landscape	The proposed development is consistent with the established character of the streetscape.	Yes
Sch. 2	Maximum building height of 8m and maximum eave height of 6.5m	The proposal has a maximum building height of 7.85m and a maximum eave height of 5.5m.	Yes
Sch. 2	Building setback	The front setback is within 20% of the average setback of adjacent dwellings. The side and rear setbacks are greater than 1m. The parking area proposed within the front setback is discussed in section 5 below.	Yes
Sch. 2	Site coverage	The proposed building site coverage is approximately 161m ² . The total site coverage permitted is 400m ²	Yes
Sh.2	Width across site	The proposal does not change the current building width across the site.	Yes
78	Bushfire protection	The NSW Rural Fire Service was consulted in relation to the development. Refer to section 4 below for further information.	

2. Development of land zoned as Environmental Protection - Private

The front portion of the property (for a depth of 24 metres along the northern boundary and 32.8 metres along the southern boundary) is zoned Living - Bushland Conservation under LEP 2005 and currently contains the dwelling, car parking area and rear yard.

The rear section of the property is zoned EP - Private and the majority of this area is undeveloped and in its natural bushland state.

The proposed deck and roof cover would extend a maximum of up to 1 metre onto that part of the property zoned EP-Private. As the deck is ancillary to the dwelling, it is permissible in accordance with the land use matrix in Clause 32 of LEP 2005 in both the Living-Bushland Conservation and EP-Private zones with the consent of the Council.

Clause 30 of LEP 2005 sets out the objectives for the EP-Private zone as follows:

- “(a) To protect land that is environmentally sensitive or has high scenic value from development, where that land is privately owned or is not intended to be used as public open space.*
- (b) To encourage land restoration works on disturbed bushland areas.*
- (c) To allow bush fire hazard reduction that is in a form consistent with the protection of natural ecological values.*
- (d) To restrict development on part of land that is inappropriate by reason of physical characteristics or high bush fire hazard, but only where less restricted development is allowed by this plan elsewhere on the land due to its different zoning.*
- (e) To contribute to the maintenance of bio-diversity in the Blue Mountains.*
- (f) To allow for low impact nature-based recreational activities that are consistent with the protection of the land’s natural ecological significance.”*

Objectives (a), (c) and (e) are relevant to this proposal.

The land considered to be environmentally sensitive is the EP-Private zone on the property. This land will not be adversely affected by the proposed minor encroachment by the deck as it is already in use as private open space, comprising lawn and exotic shrubs; however there will be some impact by the development of an asset protection zone (APZ) which is necessary to reduce the bushfire hazard.

The applicant has proposed selective vegetation removal for the inner protection area component of the APZ, and the nominated removal is considered to be in keeping with the above objectives.

The stormwater dispersal area which comprises a bio-retention filler media that is planted with native species and retained by a leaky rock wall is also proposed to be located in the EP-Private zone. This dispersal area is located within an existing cleared area and will take the overflow from the rainwater tanks. This system will serve to supply a small wetland and reduce the velocity of storm flows. It represents a positive environmental outcome. Given the site constraints and the location of the zone boundary, there is no practical alternative location for the dispersal area. The property is also affected by a proposed 3 metre wide drainage easement which runs along the northern side boundary and within the easement is an open unlined channel which forms part Council’s road drainage system. In this context it is

therefore considered that the proposed stormwater dispersal method for the dwelling additions will not have an adverse impact on the EP-Private land.

3. Development of land designated as Protected Area – Slope Constraint Area (PA-SCA)

A portion of bedroom 3 and the family room are proposed to be located on land designated as PA-SCA under LEP 2005. It should be noted that if the rear portion of the property had not been zoned EP-Private, it is likely it would also have been designated as PA-SCA based on the Council's mapping information which indicates slopes of 20% or greater for this land.

The objectives of the Protected Area-Slope Constraint Area are:

- “(a) to restrict development of land that has contiguous areas of slope greater than 20 percent or physical characteristics that render the land inappropriate for development, and*
- (b) to ensure that development on land that has contiguous areas of slope greater than 20 percent is designed and sited to minimise vegetation clearing and soil disturbance, and*
- (c) to encourage the retention, restoration and maintenance of disturbed native vegetation on steep land.”*

The proposed deck and the rear portion of the additions are proposed to be constructed within the slope constraint area. The design of the additions has responded to the physical characteristics of the site by locating a storage area under the additions. It is proposed to carry out some excavation in this subfloor area, however it is located outside the slope constraint area and all excavated areas are fully retained. The deck will be supported on posts with concrete pad footings and will involve minimal disturbance of the ground surface.

4. Development on bushfire-prone land

The subject property is designated as bushfire-prone land on the Council's bushfire-prone land maps. Accordingly, the application was referred to the New South Wales Rural Fire Service (RFS) for their comments as required by section 79BA of the Environmental Planning and Assessment Act.

The RFS advised of their conditional support of the proposal, including the management of part of the EP-Private zone on the property as an Asset Protection Zone, consisting of an 'Inner Protection Area' (IPA) and 'Outer Protection Area' (OPA), for a distance of 50m from the dwelling.

The applicant has submitted a plan proposing the removal of 5 trees within the IPA and the retention of all existing vegetation within the OPA. This level of vegetation removal/retention will provide adequate canopy separation and fuel reduction while not adversely impacting on the ecological values in a significant way.

5. Front building setback

The parking area proposed within the front building setback is seeking to formalise the current informal parking area by providing a level, paved surface with retaining walls. There is no proposal as part of this development application to construct a carport or similar structure; however it would be reasonable to assume that such a structure may be the subject of a future development application.

If a carport or similar structure was proposed for this location in the future, the variation to the front building setback would be assessed on its merits. The adjoining property to the south has a carport which is located on the front boundary and the subject property has a well established hedge which will be retained along the front boundary. The car parking area has also been located away from the side boundary to retain a very large native tree which is located near the side boundary. This and the slope of the land means that there are limited opportunities to locate a parking area beside the existing dwelling. It is therefore considered that a carport or similar structure, if well designed, could be consistent with the established character and streetscape of the surrounding area.

Conclusion

The additions and alterations to the existing dwelling are proposed to be located up to 1.0 metre on land within the Environmental Protection-Private zone and on land designated as Protected Area-Slope Constraint Area under LEP 2005.

The application and supporting documentation demonstrates that the proposed development complies with the relevant objectives of LEP 2005 and is consistent with development in the locality.

The building addition and the associated stormwater dispersal area will be located within the existing cleared rear yard.

It is recommended the development application be approved subject to the conditions shown in Attachment 1.

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Attachment 1 – Proposed conditions of development consent

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| Confirmation of relevant plans | <p>of 54. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by Wendy Wheatley:</p> <ul style="list-style-type: none"> a) sheets 1 to 4 of 4 dated 12 November 2007; b) site plan received 17.12.07 showing the Asset Protection Zones and vegetation removal; <p>and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.</p> |
| Period of development consent | <p>55. Physical commencement of construction is required within a two year period from the date of this consent. Should this not occur, the development consent will lapse.</p> |
| Sydney Water Stamping of plans | <p>3. The approved plans must be submitted to a Sydney Water Quick Check agent or Water Servicing Coordinator 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.</p> <p>Please refer to the web site www.sydneywater.com.au for:</p> <ul style="list-style-type: none"> ▪ Quick Check agent 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 <p>or telephone 13 20 92.</p> <p>A copy of the stamped plans or other documentary evidence from Sydney Water’s accredited agent demonstrating that the plans have been stamped by them is to be submitted to the Principal Certifying Authority prior to construction commencing.</p> |
| Construction certificate | <p>4. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.</p> |

Home warranty insurance

5. It is the responsibility of property owners to ensure Home Warranty insurance has been obtained in accordance with the Home Building Act 1989. Prior to any works commencing on the site, a copy of the Home Warranty Insurance Certificate for the property is to be submitted to the Principal Certifying Authority. Information on this insurance scheme can be obtained from the Department of Fair Trading.

Plans on site

6. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.

Site management

7. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
 - a) Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of the Council.
 - b) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - c) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site.
 - d) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to an authorised waste management facility.

Signage

8. To ensure the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:
 - a) The statement “Unauthorised access to the site is not permitted”.
 - b) The names of the builder or another person responsible for the site along with an out of hours contact number.

c) Lot or Street number.

Soil erosion

9. All exposed earthworks and disturbed areas shall have suitable sediment control measures in place **prior** to the commencement of construction to prevent soil erosion and the transport of sediment off the site during rainfall and runoff. The sediment control measures shall be continually monitored and maintained for the duration of construction and for six months after completion.

Building Code of Australia

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

Materials & colours

11 To have regard of the amenity of the area, the materials and colours to be used are:

- a) Roof tiles to match existing dwelling
- b) External cladding fibre cement sheets - Colorbond ‘Paperbark’ bagged brickwork Porter’s ‘Wet Cement’ custom orb - Colorbond ‘Jasper’ mini orb - Colorbond ‘Paperbark’
- c) Guttering, downpipes Colorbond ‘Woodland Grey’

Any variation to the above materials / colours will require the prior approval of Council.

Level of construction

12 Construction on the north, east and south aspects shall comply with Level 3 construction in accordance with AS3959-1999 ‘Construction of Buildings in Bushfire Prone Areas’.

Construction on the west aspect shall comply with Level 2 construction in accordance with AS3959-1999 ‘Construction of Buildings in Bushfire Prone Areas’.

French doors

13 The French door assembly on the west aspect including glazing and framework shall be designed and constructed to withstand 19kW/m² of radiant heat flux, and to prevent the entry of embers into the building. Draught excluders, seals and door furniture shall be manufactured from materials having a flammability index of no greater than 5 in accordance with AS1530.

Bushfire protection measures for existing dwelling

14 As the additions/alterations exceed 50% of the floor area of the existing main building the following bushfire protection measures are required:

- a) all currently unscreened openable portions of both windows and doors on the existing dwelling shall be adequately screened from bushfire ember attack in accordance with Level 1 construction under AS3959-1999 ‘Construction of Buildings in Bushfire Prone Areas’; and
- b) all gutters and valleys on the existing dwelling shall be screened from fine fuel build-up with non-combustible gutterless or leafless guttering.

Roofing

15 Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material. Screening shall be installed in such a manner that permits the removal of fine fuel accumulations within roof gutters and valleys

Skylight units

16 All skylight units shall perform to a radiant heat flux of 29kW/m².

Asset Protection Zone

17 The property shall be managed as an ‘Asset Protection Zone’ (APZ) as outlined within section 4.1.3 and Appendix 2 in Planning for Bushfire Protection (NSW RFS 2006) and Standards for Asset Protection Zones (NSW RFS) as follows:

- a) North, west and south aspects to be managed as an Inner Protection Area (IPA) from the dwelling to the property boundary
- b) East aspect to be managed as an APZ for a distance of 50m from the dwelling additions including an Inner Protection Area (IPA) of 25m and an Outer Protection Area of 25m

Individual trees may be retained within the IPA. Trees within the IPA must not be continuous. There must be a minimum 2 metres and a maximum 5 metres separation of canopies.

NOTE: Total clearance of all vegetation is not acceptable.

This work is to be completed prior to the issue of an Occupation Certificate.

The APZ is to be maintained on a permanent basis.

- Newly established trees** 18 No newly established trees shall be located within 5m of the dwelling and additions so as to prevent the accumulation of fine fuels within roof gutters and valleys
- Static water supply** 19 In recognition of the potentially unreliable reticulated water supply in the locality a minimum 10,000 litre static, non-combustible water supply tank shall be provided. The tank shall be provided with a minimum 3kW (5hp) petrol or diesel or generator powered pump together with associated hoses/nozzles. A 38mm storz fitting and ball or gate valve shall be installed in the tank.
- Static Water Supply marker** 20 Obtain a Static Water Supply (SWS) marker from the Blue Mountains NSW Rural Fire Service as part of the District's Static Water Supply Program once the dedicated tank water supply has been installed. The marker once issued is shall be:
- a) fixed in a suitable location so as to be highly visible;
 - b) positioned adjacent to most appropriate access for the static water supply;
 - c) fixed facing the roadway on a gatepost, fence or dedicated post, at the right hand side of the entranceway to the Static Water Supply;
 - d) fixed not less than 600mm from the ground surface to the base of the sign and not higher than 1200mm from the ground surface to the base of the sign; and
 - e) fixed with suitable screws or nails.
- RFS personnel access** 21 Unrestricted access shall be provided around the property for fire fighting personnel.
- Stormwater drainage** 22 To control rainwater runoff, roof water shall be connected to stormwater drainage lines discharging to a rainwater tank with overflow to a dispersal area.
- It is recommended that the drainage system be installed at the same time as the footings/slab. It must, however, be operational as soon as the roof is clad.
- Drainage easement** 23 To ensure the existing overland flow of stormwater within the proposed drainage easement located adjacent to the northern side of the dwelling is maintained, no construction works or excavations shall

take place within the drainage easement. Any retaining wall adjacent to the easement shall extend a minimum of 500mm above the existing ground levels, or alternatively the excavation shall be retained by the external wall of the additions. All existing flow paths shall be maintained.

