



Warringah Council

RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA No. DA2009/0550

Assessment Officer: Shaylin Moodliar

Property Address: Lot 1 in DP 518716, No. 55 Cannons Parade FORESTVILLE

Proposal Description: Construction of a new swimming pool and associated decking and landscaping

Plan Reference: LPDA 09-257/1 to LPDA 09-257/6 dated March 2009)

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

Estimated Cost of Works: \$ 47 500

Are S94A Contributions Applicable?

☐ Yes ☒ No

Notification Required?

☐ Yes ☒ No

Submissions Received?

☒ Yes ☐ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

No. of Submissions: One (1)

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

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

WLEP 2000

Locality: C1 Middle Harbour Suburbs

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

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

Desired Future Character:

☐ Category 1 Development with no variations to BFC's (Section 2 Assessment not required)

Is the development considered to be consistent with the Locality's Desired Future Character Statement?

☒ Yes ☐ No

☒ Category 1 Development with variations to BFC's (Section 2 Assessment Required)

☐ Category 2 Development Consistency Test (Section 2 Assessment Required)

☐ Category 3 Development Consistency Test (Section 2 Assessment Required)

Built Form Controls:



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Building Height (overall): Applicable: ☒ Yes ☐ No Requirement: ☒ 8.5m ☐ 11.0m ☐ Other	☒ Existing and unchanged Proposed: Complies: ☒ Yes ☐ No
Building Height (underside of upper most ceiling): Applicable: ☒ Yes ☐ No Requirement: ☒ 7.2m ☐ Other	☒ Existing and unchanged Proposed: Complies: ☒ Yes ☐ No
Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m ☐ Other Is the Corner Allotment / Secondary Street Frontage control applicable?: ☐ Yes ☒ No Requirement: ☐ 3.5m ☐ Other	☒ Existing and unchanged Proposed: No proposed development within the front yard. Complies: ☒ Yes ☐ No Corner Allotment: ☐ Existing and unchanged Proposed:m Complies: ☐ Yes ☐ No
Housing Density: Applicable: ☒ Yes ☐ No Requirement: ☐ 1 dwelling per 450sqm ☒ 1 dwelling per 600sqm ☐ Other	☒ Existing and unchanged Proposed: 1 dwelling / per 714 sqm Complies: ☒ Yes ☐ No
Landscape Open Space: Applicable: ☒ Yes ☐ No ☒ 40% (285 sqm) ☐ 50% (.....sqm) ☐ Other	☐ Existing and unchanged Proposed: 45% (322 sqm) Complies: ☒ Yes ☐ No



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Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m ☐ Other Outbuildings: Requirement: ☒ 50% of rear setback ☐ Other	☐ Existing and unchanged Proposed: 2m Complies: ☐ Yes ☒ No Outbuildings: ☐ Existing and unchanged Proposed: 49% (56sqm) Complies: ☒ Yes ☐ No
Side Boundary Envelope: Applicable: ☐ Yes ☒ No Requirement: ☒ 4m / 45 degrees ☐ 5m / 45 degrees ☐ Other	Boundary: ☐ Nth ☐ Sth ☐ Est ☒ Wst ☒ Existing and unchanged or Fully within Envelope: ☐ Yes ☐ No Minor Breach: ☐ Yes ☐ No Complies: ☐ Yes ☐ No Boundary: ☐ Nth ☐ Sth ☒ Est ☐ Wst ☒ Existing and unchanged or Fully within Envelope: ☐ Yes ☐ No Minor Breach: ☐ Yes ☐ No Complies: ☐ Yes ☐ No
Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary: ☐ Nth ☐ Sth ☐ Est ☒ Wst ☐ Existing and unchanged or Proposed: 7m (to pool coping) Complies: ☒ Yes ☐ No Boundary: ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Proposed: Nil Complies: ☐ Yes ☒ No (further assessment)
Other:	



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General Principles of Development Control:

CL38 Glare & reflections Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL39 Local retail centres Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL40 Housing for Older People and People with Disabilities Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL41 Brothels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL42 Construction Sites Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL43 Noise Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL44 Pollutants Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL45 Hazardous Uses Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL46 Radiation Emission Levels Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL47 Flood Affected Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL48 Potentially Contaminated Land Applicable: ☒ Yes ☐ No	Complies: Based on the previous land uses if the site likely to be contaminated? ☐ Yes ☒ No Is the site suitable for the proposed land use? ☒ Yes ☐ No



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CL49 Remediation of Contaminated Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL49a Acid Sulfate Soils Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL50 Safety & Security Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL51 Front Fences and Walls Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL53 Signs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL54 Provision and Location of Utility Services Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL55 Site Consolidation in 'Medium Density Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL56 Retaining Unique Environmental Features on Site Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL57 Development on Sloping Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL58 Protection of Existing Flora Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL59 Koala Habitat Protection Applicable:	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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☐ Yes ☒ No	
CL60 Watercourses & Aquatic Habitats Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL61 Views Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL62 Access to sunlight Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL63 Landscaped Open Space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL63A Rear Building Setback Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL64 Private open space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL65 Privacy Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No Subject to the swimming pool deck being a minimum of 900mm off the eastern side boundary, the proposed development is unlikely to cause an unreasonable direct overlooking of principal private open spaces of the surrounding properties.
CL66 Building bulk Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL67 Roofs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL69 Accessibility – Public and Semi-Public Buildings Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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CL70 Site facilities Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL71 Parking facilities (visual impact) Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL72 Traffic access & safety Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL73 On-site Loading and Unloading Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL74 Provision of Carparking Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL75 Design of Carparking Areas Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL76 Management of Stormwater Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL77 Landfill Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL78 Erosion & Sedimentation Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL79 Heritage Control Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL81 Notice to Heritage Council Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No Aborgated.



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CL82 Development in the Vicinity of Heritage Items Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL83 Development of Known or Potential Archaeological Sites Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedules:	
Schedule 5 State policies Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 6 Preservation of bushland Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 7 Matters for consideration in a subdivision of land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 8 Site analysis Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
Schedule 9 Notification requirements for remediation work Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 10 Traffic generating development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 11 Koala feed tree species and plans of management Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 12 Requirements for complying development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach Applicable:	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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☐ Yes ☒ No	
Schedule 14 Guiding principles for development near Middle Harbour Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 15 Statement of environmental effects Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 17 Carparking provision Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No

Other Relevant Environmental Planning Instruments:

SEPPs: Applicable? ☒ Yes ☐ No

SEPP Basix: Applicable?

☒ Yes ☐ No

If yes: Has the applicant provided Basix Certification?

☐ Yes ☒ No

SEPP 55 Applicable?

☒ Yes ☐ No

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

☐ Yes ☒ No

Is the site suitable for the proposed land use?

☒ Yes ☐ No

SEPP Infrastructure

Applicable?

☒ Yes ☐ No

Is the proposal for a swimming pool:

Within 30m of an overhead line support structure?

☐ Yes ☒ No

Within 5m of an overhead power line ?

☐ Yes ☒ No

Does the proposal comply with the SEPP?

☒ Yes ☐ No

REPs: Applicable?: ☐ Yes ☒ No

EPA Regulation Considerations:



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Clause 54 & 109 (Stop the Clock) Applicable: ☐ Yes ☒ No	
Clause 92 (Demolition of Structures) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 92 (Government Coastal Policy) Applicable: ☐ Yes ☒ No	Is the proposal consistent with the Goal and Objectives of the Government Coastal Policy ? ☐ Yes ☐ No
Clause 93 & 94 (Fire Safety) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 94 (Upgrade of Building for Disability Access) Applicable: ☐ Yes ☒ No	Addressed via condition? ☐ Yes ☐ No
Clause 98 (BCA) Applicable: ☒ Yes ☐ No	Addressed via condition? ☒ Yes ☐ No

REFERRALS

Referral Body/Officer	Required	Response
Development Engineering	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Landscape Assessment	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Bushland Management	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Catchment Management	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition



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		☐ Unsatisfactory
Aboriginal Heritage	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Env. Health and Protection	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
NSW Rural Fire Service	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory
Energy Australia	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory

Applicable Legislation/ EPI's /Policies:

- | | |
|---|---|
| ☒ EPA Act 1979
☒ EPA Regulations 2000
☐ Disability Discrimination Act 1992
☒ Local Government Act 1993
☐ Roads Act 1993
☒ Rural Fires Act 1997
☐ RFI Act 1948
☐ Water Management Act 2000
☐ Water Act 1912 | ☒ Swimming Pools Act 1992;
☒ SEPP No. 55 – Remediation of Land
☐ SEPP No. 71 – Coastal Protection
☒ SEPP BASIX
☒ SEPP Infrastructure
☒ WLEP 2000
☒ WDCP
☐ S94 Development Contributions Plan
☐ S94A Development Contributions Plan
☐ NSW Coastal Policy (cl 92 EPA Regulation)
☐ Other |
|---|---|

SECTION 79C EPA ACT 1979

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



SECTION 2 – ISSUES

PUBLIC EXHIBITION

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

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

Name	Address
David Martin	No. 59 Cannons Parade, Forestville

The following issues were raised in the submissions:

- Stormwater drainage/interference with the main sewer line;
- Tree removal;

The matters raised within the submissions are addressed as follows:

- Stormwater drainage/interference with the main sewer line;

Comment: The submission has raised concern regarding the possibility of stormwater drainage leakage and/or interference with the main sewer line from the proposed swimming pool. The proposed pool is required to be built in accordance with the Built Form Controls. The plans received by the Council on 11 May 2009 show the swimming pool being 2 metres from the adjoining No.59 Cannons Parade rear property boundary, however, given the whole lot of No.55 Cannons Parade is located on the same level than the adjoining properties along Cannons Parade, any possible leakage from erosion of sedimentation from the swimming pool and any property damage is a civil matter to be managed wholly by No.55 Cannons Parade. A condition of consent will be imposed that ensures that approved consent plans are in concurrence with Sydney Water sewer and water mains, stormwater drains and/or easements. Furthermore, the proposed development is considered to meet Clause 76 (Management of Stormwater) of the WLEP 2000.

- Tree removal;

Comment: The submission has raised concern regarding the possibility of property damage due to the proposed tree removal. The proposed tree removal on the subject site will not adversely affect the adjoining properties and the proposed tree removal will be replaced by a landscaped setting that is compatible with surrounding lands. Furthermore, the proposed development will have selected landscape plantings up to 15 metres in height, which will enhance privacy between dwellings and create a sense of openness in the surrounding the rear yards.

MEDIATION

Has mediation been requested by the objectors?

☐ Yes / ☒ No

Has the applicant agreed to mediation?

☐ Yes / ☐ No ☒ N/A

Has mediation been conducted?

☐ Yes / ☐ No ☒ N/A

WLEP 2000

DESIRED FUTURE CHARACTER

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

The south-west section of the Killarney Heights High School grounds contains bushland and rock outcrops: this area may be developed for housing. Development in this section will recognise the



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bushland outlook, views and privacy enjoyed from residences adjoining the northern and western boundaries of the site and ensure development reasonably maintains these qualities. The retention of existing landscaping is encouraged, where practical.

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

The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

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

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

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

Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement. Notwithstanding Clause 12(3)(a) only requires the consideration of the DFC statement, however as detailed under the Built Form Controls Assessment section of this report the proposed development results in non-compliances with the Side Setback Built Form Control, as such pursuant to Clause 20(1) a higher test is required.

Accordingly, an assessment of the proposals consistency against the DFC statement is detailed hereunder:

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

Comment: The proposal maintains the existing detached style dwelling as characterised by a landscaped setting, and the subject site is not located near recreational facilities.

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

Comment: The subject property is not located within the aforementioned site. This requirement is not applicable to the current development.

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

Comment: Subject to the swimming pool deck being a minimum of 900mm off the eastern side boundary, the proposed works will maintain the visual pattern and predominant scale of detached style housing by ensuring the works respond to the site and minimise bulk by providing generous setbacks. There are no subdivision works as part of this development.

Requirement: The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Comment: There are no affected landscape features as part of this proposal. The additional works have been designed to integrate with the natural landscape and step down the slope of the land.

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

Comment: The subject property is not located within the aforementioned surroundings. This requirement is not applicable to the current development.

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

Comment: The subject property is not located within or near a local retail centre. This requirement is not applicable to the current development.

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

Comment: The subject property is not located within the aforementioned setting. This requirement is not applicable to the current development.

BUILT FORM CONTROLS

As detail within Section 1 (Code Assessment) the proposed development is considered to fails satisfy the Locality's Side Setback Built Form Control, accordingly, further assessment is provided hereunder.

Description of variations sought and reasons provided:

Side Setback Built Form Control

Requirement:

Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary ☐ Nth ☐ Sth ☐ Est ☒ Wst ☐ Existing and unchanged or Proposed: 7m (to pool coping) Complies: ☒ Yes ☐ No Boundary ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Proposed: Nil Complies: ☐ Yes ☒ No (further assessment)
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Area of inconsistency with control: The swimming pool decking seeks a nil southern side setback.



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Merit Consideration of Non-compliance: In assessing these non-compliant elements of the proposal, it is necessary to consider the objectives of the side setback built form control. Accordingly, compliance with the objectives are addressed below:

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

Comment: The non-compliance is due to the proposed swimming pool decking along the eastern side boundary. The proposed nil eastern side boundary breach extends for a total of approximately 8.8m.

The proposed non-compliance is considered to result in visual bulk and will unreasonably dominate the surrounding private open spaces, rather than a design that seeks to enhance a sense of openness on the site and to the surrounding properties by providing a screened deck and maintaining a generous side setback. A condition of consent to have the proposed swimming pool deck 900mm off the eastern side boundary will be imposed.

Requirement: Preserve the amenity of surrounding land

Comment: The breach is not considered acceptable as it would have a detrimental effect on its adjoining properties in terms of visual or acoustic amenity and swimming pool deck design will detract from the sense of openness and separation afforded by the site. A condition of consent to have the proposed swimming pool deck 900mm off the eastern side boundary will be imposed.

Requirement: Ensure that development responds to site topography

Comment: The development seeks to respond to the site topography and maintains compliance with the overall building height.

Requirement: Provide separation between buildings

Comment: Subject to the swimming pool deck being a minimum of 900mm off the eastern side boundary, the proposed works will maintain an adequate level of separation. Furthermore, the selected landscape design seeks to protect the amenity of the adjoining properties by ensuring no opportunities for overlooking of principle private open spaces.

Requirement: Provide opportunities for landscaping

Comment: The landscaping provision provides 322sqm of soft landscaped open space. The proposal will thus result in an acceptable level of landscaping for the site.

Requirement: Create a sense of openness

Comment: Subject to the swimming pool deck being a minimum of 900mm off the eastern side boundary, the proposed works will continue to provide an adequate sense of openness. The minimal addition of built form will not detract from the sense of openness currently afforded by the site.

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality



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The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies'). Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Notwithstanding the above, the proposed development is considered to fail the requirements to qualify for consideration under Clause 20(1). It is for the aforementioned reasons that the variation to the Side Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is not supported.

OTHER MATTERS FOR FURTHER CONSIDERATION: None



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SECTION 3 – SITE INSPECTION ANALYSIS



Site area 714sqm

Detail existing onsite structures:

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

Site Features:

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

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

Potential View Loss as a result of development

- ☐ Yes ☒ No

If Yes where from (in relation to site):

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

View of:

- Ocean / Waterways ☐ Yes ☐ No
- Headland ☐ Yes ☐ No
- District Views ☐ Yes ☐ No
- Bushland ☐ Yes ☐ No
- Other:



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Bushfire Prone?

☒ Yes ☐ No

Flood Prone?

☐ Yes ☒ No

Affected by Acid Sulfate Soils

☐ Yes ☒ No

Located within 40m of any natural watercourse?

☐ Yes ☒ No

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

☐ Yes ☒ No

Located within 100m of the mean high watermark?

☐ Yes ☒ No

Located within an area identified as a Wave Impact Zone?

☐ Yes ☒ No

Any items of heritage significance located upon it?

☐ Yes ☒ No

Located within the vicinity of any items of heritage significance?

☐ Yes ☒ No

Located within an area identified as potential land slip?

☐ Yes ☒ No

Is the development Integrated?

☐ Yes ☒ No

Does the development require concurrence?

☐ Yes ☒ No

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

☐ Yes ☒ No

Have you reviewed the DP and s88B instrument?

☒ Yes ☐ No

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

☐ Yes ☒ No



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Site Inspection / Desktop Assessment Undertaken by:

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

Date: 12 June 2009

Shaylin Moodliar, Development Assessment Officer



SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been considered against the relevant heads of consideration under S79C of the EPA Act 1979 and the proposed development is considered to be:

- ☒ Satisfactory
- ☐ Unsatisfactory

Recommendation:

That Council as the consent authority

- ☒ **GRANT DEVELOPMENT CONSENT** to the development application subject to:
- (a) the conditions detailed within the associated notice of determination; and
 - (b) the consent lapsing within three (3) from operation
- ☐ **GRANT DEFERRED COMMENCEMENT CONSENT** to the development application subject to:
- (a) the conditions detailed within the associated notice of determination;
 - (b) limit the deferred commencement condition time frame to 3 years;
 - (c) one the deferred commencement matter have been satisfactorily addressed issue an operational consent subject to the time frames detailed within part (d); and
 - (d) the consent lapsing within three (3) from operation
- ☐ **REFUSE development consent** to the development application subject to:
- (a) the reasons detailed within the associated notice of determination.

Date: 16 June 2009

Shaylin Moodliar, Development Assessment Officer

The application is determined under the delegated authority of:

Date: 16 June 2009

Ailsa Prendergast, Team Leader, Development Assessment