



Warringah Council

RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA No. DA2009/0890

Assessment Officer: Michael Edwards

Property Address: Lot 2, DP 31226, No.2 Lowing Close FORESTVILLE

Proposal Description: Demolition of the existing dwelling and construction of a new two (2) storey dwelling.

Plan Reference: BT29-16 Sheets 1 to 12, dated 27/5/2009, prepared by Buildtech Design & Development, 42000-166-01A, dated 22/6/2009, prepared by Darcon Group

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: \$331,525

Are S94A Contributions Applicable?

☒ Yes ☐ No

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$ 331,525	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.45%	\$3,149	6923
S94A Planning and Administration	0.05%	\$166	6924
Total	0.5%	\$3,315	

Notification Required?

☒ Yes ☐ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

Submissions Received?

☐ Yes ☒ No

No. of Submissions: None

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

RELEVANT BACKGROUND HISTORY

There is no background history relevant to the assessment of this application.

PROPOSED DEVELOPMENT IN DETAIL

This application seeks Council's approval for the demolition of the existing dwelling and construction of a two (2) storey dwelling. In more detail, the proposal includes the following:

- Demolition of the existing dwelling;
- Removal of the existing shipping container;
- Partial excavation of the site to an approximate depth of 700mm with matching retaining walls;



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- Construction of a new two (2) storey dwelling with internal garage;
- New vehicle crossing and driveway.

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:

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

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

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

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

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

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

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

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



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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:

Building Height (overall): Applicable: ☒ Yes ☐ No Requirement: ☒ 8.5m ☐ 11.0m	☐ Existing and unchanged Proposed: 7.2m Complies: ☒ Yes ☐ No
Building Height (underside of upper most ceiling): Applicable: ☒ Yes ☐ No Requirement: ☒ 7.2m	☐ Existing and unchanged Proposed: 5.7m 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: 6.0m minimum 18.0m maximum Complies: ☐ Yes ☒ No Corner Allotment: ☐ Existing and unchanged Proposed:m Complies: ☐ Yes ☐ No
Housing Density: Applicable: ☒ Yes ☐ No Requirement:	☐ Existing and unchanged Proposed: 1 dwelling / per 686.9sqm Complies: ☒ Yes ☐ No



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☐ 1 dwelling per 450sqm ☒ 1 dwelling per 600sqm	
Landscape Open Space: Applicable: ☒ Yes ☐ No ☒ 40% (274.7sqm) ☐ 50% (.....sqm) ☐ Other	☐ Existing and unchanged Proposed: 59.3% (407.4sqm) Complies: ☒ Yes ☐ No
Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m ☐ Other Outbuildings: Requirement: ☐ 50% of rear setback	☐ Existing and unchanged Proposed: 5.2m minimum 11.0m maximum Complies: ☐ Yes ☒ No Outbuildings: ☐ Existing and unchanged Proposed:% Complies: ☐ Yes ☐ No
Side Boundary Envelope: Applicable: ☒ Yes ☐ No Requirement: ☒ 4m / 45 degrees ☐ 5m / 45 degrees	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



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	Complies: ☒ Yes ☐ No
Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary ☐ Nth ☐ Sth ☐ Est ☒ Wst ☐ Existing and unchanged or Proposed: 3.5m minimum 7.6m maximum Complies: ☒ Yes ☐ No Boundary ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Proposed: 2.5m minimum 12.1m maximum Complies: ☒ Yes ☐ No

General Principles of Development Control:

CL38 Glare & reflections Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No The imposition of standard conditions of consent will ensure the roof finish utilises materials with a medium to dark colour range so as to reduce excessive solar reflections and glare.
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 The imposition of standard conditions will ensure the appropriate management of the site during construction works.
CL43 Noise Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL44 Pollutants	Complies:



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Applicable: ☐ Yes ☒ No	☐ 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
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 The proposed dwelling orientates windows that face the street allowing opportunities for casual surveillance to the public domain.
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	Complies:



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Services Applicable: ☒ Yes ☐ No	☒ 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 The proposed dwelling is positioned in a location that results in minimal impact on existing vegetation. While the scope of the works proposes the removal of some trees, the majority of the existing trees are retained which contribute to the landscaped setting and visual amenity of the site and the immediate streetscape.
CL59 Koala Habitat Protection Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ 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 The rear building setback control requires a setback of 6.0m. The proposed dwelling provides a minimum setback of 5.2m to the dwelling and a maximum setback of 11.0m. It is considered that the dwelling enables the sense of openness within the rear setback area, provides



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	opportunities for landscaping and will not result in an unreasonable impact to privacy and amenity of adjoining dwellings. Further, the positioning of the dwelling is considered consistent with the established pattern of development within the street.
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
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 The imposition of a condition of consent will ensure the commitments made within the BASIX Certificate are implemented in the dwelling prior to the issue of any Occupation Certificate.
CL69 Accessibility – Public and Semi-Public Buildings Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
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 The proposed parking facilities are in the form of a double garage which is integrated into the front elevation of the dwelling and do not dominate the street in this regard.
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:	Complies:



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☒ Yes ☐ No	☒ Yes ☐ Yes , subject to condition ☐ No Provision is made on-site for the provision of two (2) carparking spaces.
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 The imposition of conditions will ensure the appropriate management and disposal of stormwater.
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 The imposition of conditions will ensure the appropriate management of the site to mitigate the potential for soil erosion and sedimentation.
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
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



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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: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 14 Guiding principles for development near Middle Harbour Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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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:

☐ Yes ☒ No

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



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EPA Regulation Considerations:

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 The imposition of standard conditions will ensure the dwelling complies with the relevant provisions of the Building Code of Australia.

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



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		☐ Satisfactory, subject to condition ☐ 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 |
|---|--|



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SECTION 79C EPA ACT 1979

Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	☒ Yes ☐ No
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

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.

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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.



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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 Front Building Setback and Rear Building Setback Built Form Controls, as such pursuant to Clause 20(1) a higher test is required

Accordingly, an assessment of consistency of the proposed development against the locality's DFC is provided hereunder:

The proposed development is considered to satisfy the applicable DFC statement for the reasons detailed hereunder:

- The proposed development being for a residential dwelling, maintains the character of detached style housing within a landscaped setting;
- The subject site is located within the cul-de-sac of Lowing Close, resulting in a unique allotment configuration. In this regard, the positioning of the proposed dwelling results in non-compliance with the Front Building Setback Built Form Control and the existing pattern of development results in varying front building setbacks. Notwithstanding, the proposed dwelling is considered to maintain a consistent pattern of development and consistent built form with regard to building height, bulk and scale and allows for a landscaped front garden.

Accordingly, the proposed development satisfies the Desired Future Character statement.

BUILT FORM CONTROLS

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

Description of variations sought and reasons provided:

Front Building Setback Built Form Control

Requirement:

Development is to provide a front building setback of 6.5m

Area of inconsistency with control:

The proposed dwelling provides a minimum front building setback of 6.0m.

Merit Consideration of Non-compliance:

Create a sense of openness:

The positioning of the dwelling provides a side setback of 2.5m on the eastern elevation and a minimum of 3.5m, tapering out to 7.6m on the western elevation. In this regard, it is considered that the dwelling provides an appropriate sense of separation between dwellings and creates a sense of openness. The sense of openness is further enhanced by the provision of the front building setback tapering out to 18.0m as a result of the configuration of the allotment.



Provide opportunities for landscaping:

The proposed front building setback enables the provision of approximately 147sqm soft landscaping. In this regard, it is considered that there is sufficient accommodation of soft landscaping within the front building setback area and will maintain a landscaped setting to the site.

Minimise the impact of development on the streetscape:

The proposed dwelling presents to the street as a split level dwelling with the majority of the front elevation presenting as a single storey dwelling. When viewed from the street, the dwelling does not present a sense of visual dominance or scale and integrates with the topography of the land.

The provision of approximately 147sqm of soft landscaping within the front setback area will enable the provision of landscape plantings commensurate with the building height and bulk and will contribute to softening the external appearance of the dwelling.

Maintain the visual continuity and pattern of buildings, front gardens and landscape elements:

The subject site is located within the cul-de-sac of Lowing Close. In this regard, the established pattern of development results in varying front building setbacks. It is considered that the proposed setback with a minimum of 6.0m and a maximum of 18.0m provides a consistent pattern of development, allowing for landscaped front gardens and landscape elements to address the street frontage.

Rear Building Setback Built Form Control

Requirement:

Development is to provide a rear building setback of 6.0m.

Area of inconsistency with control:

The proposed dwelling provides a minimum rear building setback of 5.2m

Merit Consideration of Non-compliance:

Create a sense of openness in rear yards.

The subject site has a unique allotment configuration being located within the cul-de-sac of Lowing Close. Notwithstanding, the orientation and positioning of the dwelling provides an area of landscaping at the rear which equates to 193sqm with a maximum depth of 11.0m. In this regard, it is considered that the development maintains an adequate sense of openness within the rear yard.

Preserve the amenity of adjacent land.

Maintain visual continuity and pattern of buildings, rear gardens and landscape elements.

Provide opportunities to maintain privacy between dwellings.

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



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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

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).

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1). It is for this reason that the variation to the Front Building Setback and Rear Building Setback Built Form Controls (Development Standards) pursuant to Clause 20(1) are supported.

SECTION 3 – SITE INSPECTION ANALYSIS



Site areasqm

Detail existing onsite structures:

☐ None

☒ Dwelling

☐ Detached Garage

☐ Detached shed

☐ Swimming pool

☐ Tennis Court

☐ Cabana

☒ Other: Shipping Container



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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

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

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:

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 <Section 3> confirm the assessment undertaken against the relevant EPI's <Section's 1 & 2>?	☒ 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:

Signed

Date 14 August 2009

Michael Edwards, 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



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REFUSE development consent to the development application subject to:

(a) the reasons detailed within the associated notice of determination.

DEVELOPMENT APPLICATION: DA2009/0890

PROPERTY ADDRESS: No.2 Lowing Close, Forestville

Signed _____ Date 14 August 2009

Michael Edwards, Development Assessment Officer

The application is determined under the delegated authority of:

Signed _____ Date 14 August 2009

Steven Findlay, Team Leader, Development Assessment