

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2015/1030
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Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot 20 DP 855726, 204 Ocean Street NARRABEEN NSW 2101
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	LEP - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Richard Drigo Mariko Lynne Takaguchi
Applicant:	Richard Drigo

Application lodged:	23/10/2015
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	29/10/2015 to 13/11/2015
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 90,000
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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 - B2 Number of Storeys
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D12 Glare and Reflection

SITE DESCRIPTION

Property Description:	Lot 20 DP 855726 , 204 Ocean Street NARRABEEN NSW 2101
Detailed Site Description:	The subject site is generally rectangular in shape having a total area of 312.5m². The site has an easterly aspect and is located on the western side of the street. A two storey dwelling house occupies the front, mid and rear of the site. Adjoining development comprises two storey dwelling houses to the south (side) and west (rear) and a three storey residential flat building to the north (side) and west (rear). Surrounding development consists of a mixture of modern and traditional apartment style and dwelling house residential developments in landscaped settings. Birdwood Park, North Narrabeen Surf Life Saving Club and North Narrabeen Beach, Lagoon and local retail centre are located within close proximity. The site is moderately flat and identified as Land Slip Risk Map-Area A land under WLEP 2011 and Acid Sulfate Soils Class 4. Vehicle access to the site is provided from Ocean Street and leads to a driveway located between the northern elevation of the dwelling and adjoining property to the north, No.206 Ocean Street.

Map:

Development Consent No.95/55 for dual occupancy and subdivision was approved 1 February 1995.

Development consent is sought for alterations and additions to the existing two (2) storey dwelling house comprising the following;

- Third Storey level including a Storage Room with associated toilet and shower, an uncovered Terrace with side elevation timber privacy screens and open staircase to lower level;
- Extension to the east of the existing Level Two front elevation deck;
- Part infill of ground floor level at front of dwelling and provision of high sill windows;
- External materials and finishes including aluminum framed glass windows and door, timber privacy screen, flat metal roof and rendered concrete external walls.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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 'Matters for Consideration'	Comments
Section 79C (1) (a)(iii) – 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 documentation has been submitted. <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 consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <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

Section 79C 'Matters for Consideration'	Comments
	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 1 submission/s from:

Name:	Address:
Mr Lindsay Bruce Robbie	23 Jenkins Street COLLAROY NSW 2097

The following issues were raised in the submission from an adjoining property owner to the north, No.206 Ocean Street and have been addressed below:

- Excessive glare
- Non-compliance of the built form and associated view loss impacts
- External staircase not fitting in with streetscape

The matters raised within the submissions are addressed as follows:

- Excessive glare
Comment:
The concern is that the development may increase glare impacts on the adjoining units contained within the apartment building located on adjoining property to the north, No.206 Ocean Street.

The development will remove part of the existing light coloured metal roof in order to provide a roof terrace. A condition is imposed on the proposed third storey Storage roof to be of dark to medium tones to minimise solar reflections to neighbouring properties and to ensure the development complies with the requirements of WDCP D12 Glare and Reflection.

Based on the above, the concerns relating to glare do not carry determining weight and do not warrant the refusal of the application.

- Non-compliance of the built form and associated view loss impacts
Comment:
Concern is raised that the non-complying building elements of the proposal will cause view

loss to the residents of units within the apartment building located to the north, No.206 Ocean Street.

The development does not comply with the following WDCP Built Form Controls; B2 Number of storeys; B3 Side Boundary Envelope; B5 Side Boundary Setbacks; and B7 Front Boundary Setbacks.

However, as discussed under the WDCP Built Form Controls section of the report, the non-compliances are deemed acceptable on merit as they do not generate adverse neighbour amenity impacts including privacy, view loss and overshadowing. Also, as discussed under the per the D7 Views section of the report, the non-complying elements do not cause an unreasonable amount of view loss and maintains view sharing in accordance with the four view loss planning principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140.

Based on the above, the concerns relating to non-compliances and view loss do not carry determining weight and do not warrant the refusal of the application.

- External staircase not fitting in with streetscape

Comment:

The concern is that the external staircase will detract from the streetscape. This is not concurred with. As is the instance in this case, staircases are typically located outside of the built form and provide articulation to side and front elevations of buildings.

Based on the above, the concerns relating to the external staircase do not carry determining weight and do not warrant the refusal of the application.

MEDIATION

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

REFERRALS

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 (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
Height of Buildings:	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.1 Acid sulfate soils	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	N/A	N/A	N/A	N/A
B2 Number of storeys	2	3	33.3% (1)	No
B3 Side Boundary Envelope	4m	north: upper portion Storage room only outside of envelope south: all new works outside of building envelope	up to 33.3% (1.5m) 100%	No No
B5 Side Boundary Setbacks	4.5m	North: 3.1m South: 1.0m	31.1% (1.4m) 77.7% (3.5m)	No No
B7 Front Boundary Setbacks	6.5m	Dwelling: 6.5m Deck (level 2): 4.3m Garage: 6.0m	N/A 33.8% (2.2m) 7.8% (0.5m)	Yes No No
B9 Rear Boundary Setbacks	6m	11.3m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	50%	3.5% (11.0m ²)	95% (145.3m ²)	No (no change)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1 Wall Heights	N/A	N/A
B2 Number of Storeys	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	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
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D22 Conservation of Energy and Water	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B2 Number of Storeys

Description of non-compliance

The maximum number of storeys for the site is two. The roof terrace Storage room constitutes a third story .which does not comply with the numerical requirement of the control.

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 development does not visually dominate its surrounds.*

Comment:

Residential development on Ocean Street and surrounding roads comprises a mixture of two and three storey modern and traditional style dwelling houses and apartment buildings. The apartment building to the immediate north exceeds this height (8.5m) and is also three storeys in height. The dwelling house immediately to the south is two storeys in height with a greater maximum height as well.

The third storey element is confined to the mid/rear section of the existing building and has a maximum height less than 8.5m which complies with the maximum 8.5m building height requirement of WLEP 2011.

Having regard to the above, the resultant dwelling will sit comfortably between adjoining buildings and therefore development does not visually dominate its surrounds.

The proposal satisfies the Objective.

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

Comment:

An uncovered open terrace adjoins the eastern elevation of the flat roof terrace Storage room. The third storey element is confined to the mid/rear section of the existing building, comprises 18.9% (19.2m²) of the existing building footprint and has a maximum height less than 8.5m which complies with the maximum 8.5m building height requirement of WLEP 2011.

On this basis, visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes will be acceptable.

The proposal satisfies the Objective.

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

Comment:

As provided under the WDCP D7 Views section of the report, the development, including the non-complying elements will maintain view sharing between adjoining and surrounding properties. This includes a condition in the Recommendation for the length of the privacy screen to be reduced to improve views and outlooks to the adjoining properties.

The proposal satisfies the Objective.

- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*

Comment:

The areas of non-compliance do not generate unreasonable amenity impacts on adjoining land in terms of overlooking and overshadowing.

The proposal satisfies the Objective.

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

Comment:

The Storage room has a flat metal roof to minimise the overall height of the building.

The proposal satisfies the Objective.

- *To complement the height of buildings control in the LEP with a number of storeys control.*

Comment:

The development satisfies the Objectives of the control and will present a dwelling house of a height, bulk and scale to sit comfortable with adjoining and surrounding development.

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

South Elevation

The non-compliance is confined to all new works on the second and third storey level (with exception of the second storey deck). This represents a variation up to 100%.

North Elevation

The non-compliance is confined to the third level Storage room only and privacy screen. The variation varies from 1.2m to 1.5m and extends the length of the room, being 3.7m. This represents a variation up to 33.3%.

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:

The site has a width of 10.29m at the front eastern boundary and the side setbacks to the existing dwelling are 3.1m (north) and 1.0m (south). The development has been constrained by the narrowness of the site and location of the existing building footprint and side setbacks.

As a consequence the new building works on the southern elevation are located outside the projected building envelope. Similarly, only the upper portion of the Storage room project outside the envelope.

An uncovered open terrace adjoins the eastern elevation of the flat roof terrace Storage room. The third storey element is confined to the mid/rear section of the existing building, comprises 18.9% (19.2m²) of the existing building footprint and has a maximum height less than 8.5m which complies with the maximum 8.5m building height requirement of WLEP 2011.

In this regard, the extent of the non-compliance is considered reasonable and is a satisfactory design response to the constraints of the site. It is considered that the resultant built form will therefore retain a satisfactory visual bulk and scale.

Having regard to the above, the non-compliance will have an acceptable visual appearance when viewed from the street and adjoining properties.

The proposal satisfies this Objective.

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

Comment:

The area of non-compliance does not generate unreasonable amenity impacts on adjoining

land in terms of overlooking, overshadowing, visual outlook impacts and view loss.

Also, a condition is provided in the Recommendation for the length of the privacy screen to be reduced to improve views and outlooks to the adjoining properties. This will also assist minimise the overall bulk and scale of the third storey addition when viewed from adjoining properties and the street.

The proposal satisfies the objective.

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

Comment:

The mass of the building has been appropriately articulated to minimise its height and maintain the scale of the building. As such, the development responds to the topography, and on balance, the areas of non-compliance are considered acceptable.

Further, the proposal will not dominate its surrounding or cause an unacceptable sense of enclosure to neighbouring properties.

The proposal satisfies this Objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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

North Elevation: A 3.1m side setback is proposed to the northern boundary which does not comply with the 4.5m setback requirement of the control. This represents a variation of 31.1% (1.4m).

South Elevation: A 1.0m side setback is proposed to the southern boundary which does not comply with the 4.5m setback requirement of the control. This represents a variation of 77.7% (3.5m).

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 development is effectively maintaining the same building footprint and side setbacks and therefore opportunities for deep soil landscaping will be maintained within the front setback and not detract from the landscape setting of the streetscape.

The development satisfies this objective.

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

Comment:

An uncovered open terrace adjoins the eastern elevation of the flat roof terrace Storage room. The third storey element is confined to the mid/rear section of the existing building, comprises 18.9% (19.2m²) of the existing building footprint and has a maximum height less than 8.5m which complies with the maximum 8.5m building height requirement of WLEP 2011.

In this regard, the extent of the non-compliance is considered reasonable and is a satisfactory design response to the constraints of the site. It is considered that the resultant built form will therefore retain a satisfactory visual bulk and scale.

Having regard to the above, the non-compliance will have an acceptable visual appearance when viewed from the street and adjoining properties.

The proposal satisfies this Objective.

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

Comment:

As detailed above, the development is sufficiently articulated to minimise its height, bulk and scale.

The development satisfies this objective.

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

Comment:

The existing side setbacks are maintained and a reasonable level of privacy, amenity and solar access is provided to the adjoining properties.

The development satisfies this objective.

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

Comment:

The development maintains view sharing between adjoining and surrounding properties.

Also, a condition is provided in the Recommendation for the length of the privacy screen to be reduced to improve views and outlooks to the adjoining properties.

The development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

B7 Front Boundary Setbacks

Description of non-compliance

A 4.3m and 6.0m setback are proposed for the Deck (level 2) and Garage (ground level), respectively which does not comply with the 6.5m setback requirement of the control.

This represents a variation of 33.8% (2.2m) and 7.8% (0.5m), respectively.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The non-compliance relates to an open deck structure and ground floor garage. These structures do not unreasonable contribute to the bulk and scale of the development or detract from the sense of openness.

Therefore, a sense of openness is still maintained across the average setback for the building.

The proposal satisfies this Objective.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The Garage is maintaining the same front setback as the existing parking area. Also, the open deck structure is maintaining an average setback to adjoining development to the south and north.

Therefore the development will not detract from the visual continuity and pattern of buildings and landscape elements.

The proposal satisfies this Objective.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The development will provide an improved built form in terms of articulation and external materials and finishes. In this regard, the development will not detract from the visual quality of streetscapes and public spaces.

The proposal satisfies this Objective.

- *To achieve reasonable view sharing.*

Comment:

The development maintains view sharing between adjoining and surrounding properties.

Also, a condition is provided in the Recommendation for the length of the privacy screen to be reduced to improve views and outlooks to the adjoining properties. This will also assist minimise the overall bulk and scale of the third storey addition when viewed from adjoining properties and the street.

The development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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

The dwelling house currently provides two (2) car parking spaces and the development will result in one (1) space to be provided which does not comply with the two (2) space minimum requirement of the control.

It is considered that there is high demand for on-street parking on Ocean Street and surrounding local roads. In this regard, a condition is included in the Recommendation for the Level One Porch and Foyer to be deleted and the area retained as a Garage. Subject to this recommended condition, two (2) spaces will be retained by the development which complies with the control.

D7 Views

One submission was received which raised concerns that the development would obstruct (ocean) water views off Narrabeen Beach.

The view loss assessment carried out included a site inspection of Unit 8/206 Ocean Street. It is considered that this would be the worst affected premise in terms of view loss.

In summary, it is concluded that the proposal will not unreasonably affect the views of adjoining properties, including Unit 8/206 Ocean Street.

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

- *To allow for the reasonable sharing of views.*

Comment:

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:

The views available from properties include partial and distant views of the Pacific Ocean (water) off Narrabeen Beach with associated Narrabeen district views. These views are also obtained through and over building corridors, including residential development located on the western side of Ocean Road. Accordingly, these views are considered of low to moderate value.

Views are also obtained from properties to the south-west of Narrabeen and surrounding districts. These are considered more of an outlook rather than a view and are considered of low value.

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:

The water and district views are obtained from external living rooms (balcony) over the front and side boundary in a standing and sitting position.

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:

The development will have a negligible to minor impact on all views obtained from adjoining and surrounding development. Also, the proposal will not affect available water views.

The proposed roof terrace privacy screen will affect the district component associated with the water view which is obtained over the side boundary.

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 proposal has been assessed as being compliant with the building height and non-compliant with the side setback, building envelope and number of storey WDCP Built form Controls. However, the non-compliances have been assessed in detail and are not seen as an unacceptable design response to the configuration of the site.

A condition has been included in the Recommendation for the length of the privacy screen to be reduced, and as a consequence, distant and district views to the north and north-east are retained.

Additionally, compliance with the numerical requirements of the controls or further amendments to the building design would not provide a tangible improvement in the views available to adjoining properties.

Having regard to the above, the development is reasonable and acceptable with regard to the requirements of Clause D7 – View Sharing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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

Privacy is maintained between adjoining properties, including Nos.202 & 206 Ocean Street, through the use of privacy screen, high sill windows and location and orientation of balconies and windows.

As detailed previously, a condition is provided in the Recommendation for the length of the privacy screen to be reduced to improve views and outlooks to the adjoining properties.

Submitted plans do not detail if the Roof Level north elevation Furniture Store (WC) window is frosted. In this regard, a condition is included in the Recommendation for the window to be high sill or frosted.

Having regard to the above, the development will maintain privacy between properties and satisfies the Objectives of the control.

D12 Glare and Reflection

To minimise glare of the new roof structure a condition has been included in the Recommendation for external finish to the proposed roof to be medium to dark range in order to minimise solar reflections to neighbouring properties. However, it is noted that the existing roof is light coloured which is contrary to the requirements of the control as it generates glare to the adjoining property to the north, being No.206 Ocean Street.

The development will remove a majority of the existing roof with exception of the rear western portion of the dwelling. In this regard, an opportunity will be afforded for that section of the roof to be painted in medium to dark tones. Alternatively, that section of the roof may be replaced by a new section of medium to dark tones.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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 DA2015/1030 for Alterations and

additions to a dwelling house on land at Lot 20 DP 855726, 204 Ocean Street, NARRABEEN, 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
DA/01 Rev A	18/09	Moline Associates Architects
DA/02 Rev A	18/09	Moline Associates Architects
DA/03 Rev A	18/09	Moline Associates Architects
DA/04 Rev A	18/09	Moline Associates Architects
DA/05 Rev A	18/09	Moline Associates Architects

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

d) The development is to be undertaken generally in accordance with the following:

Waste Management Plan	Dated: undated	Prepared By: unnamed
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In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- The north and south elevation privacy screens, located on the Roof Level (as shown on approved plans), are to have a length of 4.5m measured from the eastern elevation of Furniture Store.
- The Level One Foyer and Porch, as shown on approved plans, are to be deleted and the area retained as a Garage.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts in accordance with WLEP2011 and WDCP. (DACPLB02)

3. 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)

4. **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.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

(1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.

(2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Councils 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.

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.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.warringah.nsw.gov.au/your-council/forms).

Reason: To ensure adequate protection of Councils infrastructure.

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

6. 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)

7. **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 does not occur as a result of the development. (DACPLC03)

8. **Treatment to Furniture Store (WC) window**

The north elevation Roof Level Furniture Store (WC) window is to be high sill (measured 1.65m from the finished floor level) or frosted (obscure 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)

9. **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)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed

Kevin Short, Planner

The application is determined under the delegated authority of:

Phil Lane, Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2015/320465	Notification map	29/10/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/317513	Plan - Survey	19/09/2015
 2015/317579	Plan - Shadow	13/10/2015
 2015/317517	Report Statement of Environmental Effects	13/10/2015
 2015/317633	Report - Waste Management Plan	13/10/2015
 DA2015/1030	204 Ocean Street NARRABEEN NSW 2101 - Development Application - Alterations and Additions	23/10/2015
 2015/314599	DA Acknowledgement Letter - Richard Drigo	23/10/2015
 2015/317491	Development Application Form	27/10/2015
 2015/317494	Applicant Details	27/10/2015
 2015/317502	Plans - Notification	27/10/2015
 2015/317573	Plans - External	27/10/2015
 2015/317577	Plans - Internal	27/10/2015
 2015/317644	Plans - Master Set	27/10/2015
 2015/319291	File Cover	28/10/2015
 2015/319301	Referral to AUSGRID - SEPP - Infrastructure 2007	28/10/2015
 2015/320461	Notification Letter 37	29/10/2015
 2015/320465	Notification map	29/10/2015
 2015/350474	Submissions re DA2015/1030 - 204 Ocean St Narrabeen	24/11/2015
 2015/359671	Submission - Robbie	03/12/2015
 2015/366263	Submission Acknowledgement Letter - Lindsay Bruce Robbie - SA2015/359671	10/12/2015