



Warringah Council

RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA No: 2008-1303

Assessment Officer: Clint Mills

Property Address: 12 Hunter St, NORTH BALGOWLAH NSW 2093

Proposal Description: Alterations and additions to existing dwelling including first floor addition, including a bedrooms, a hallway, bathrooms, walk in robes and linen storage areas.

Plan Reference: Floor Plans, North & South Elevations, East & West Elevations & Section A-A, Site Analysis Plan, Shadow Diagram June 21 (9-12-3).

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: \$216000

Are S94A Contributions Applicable?

☒ Yes ☐ No

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$	216,000.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$2,052	6923
S94A Planning and Administration	0.05%	\$108	6924
Total	1.0%	\$2,160	

Notification Required?

☒ Yes ☐ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

Submissions Received?

No. of Submissions: 1

☒ Yes ☐ No

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

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

WLEP 2000

Locality: G3 Manly Lagoon 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:

Building Height (overall): Applicable: ☒ Yes ☐ No Requirement: ☒ 8.5m ☐ 11.0m ☐ Other	☐ Existing and unchanged Proposed: 8.0m Complies: ☒ Yes ☐ No
Building Height (underside of upper most ceiling): Applicable: ☒ Yes ☐ No Requirement: ☒ 7.2m ☐ Other	☐ Existing and unchanged Proposed: 6.7m 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: 7.785m Complies: ☒ Yes ☐ No Corner Allotment: ☐ Existing and unchanged Proposed:m Complies: ☐ Yes ☐ No



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Housing Density: Applicable: ☐ Yes ☐ No Requirement: ☐ 1 dwelling per 450sqm ☒ 1 dwelling per 600sqm ☐ Other	☒ Existing and unchanged Proposed: 1dwelling / per 884.26sqm Complies: ☒ Yes ☐ No
Landscape Open Space: Applicable: ☒ Yes ☐ No ☒ 40% (355.4sqm) ☐ 50% (.....sqm) ☐ Other	☒ Existing and unchanged Proposed: 48.7% (432.874sqm) Complies: ☒ Yes ☐ No
Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m ☐ Other Outbuildings: Requirement: ☐ 50% of rear setback ☐ Other	☒ Existing and unchanged Proposed: 30.1m Complies: ☒ Yes ☐ No Outbuildings: ☐ Existing and unchanged Proposed:% 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 Comment: The Side Boundary Envelope does not comply with the requirements of the Built Form Control. An analysis of this non compliance is located within section 2 of this report.



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	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: 5.25m Complies: ☒ Yes ☐ No Boundary ☐ Nth ☒ Sth ☐ Est ☐ Wst ☐ Existing and unchanged or Proposed: 1.25m Complies: ☒ Yes ☐ No
Other:	

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



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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: ☒ Yes ☐ Yes , subject to condition ☐ 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
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



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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: ☐ 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 A further assessment is needed to fulfil the achievement of this General Principle. See section 2 within this report for more information.
CL63 Landscaped Open Space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No Sufficient landscaping is located on the site. Proposed is the addition of a first floor and does not impact on the existing 432.87 square metres of landscaped open space.
CL63A Rear Building Setback Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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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 A further assessment is undertaken against the objectives of this General Principle given the unreasonable direct overlooking to the adjacent property. See section 2 within this report for more information.
CL66 Building bulk Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☐ Yes , subject to condition ☒ No A further assessment is undertaken against the objectives of this General Principle given the architectural scale of the proposed. See section 2 within this report for more information.
CL67 Roofs Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No The proposed colourbond roof is consistent with the surrounding skyline and does not detract from the locality.
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No A BASIX has been provided for this development application.
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
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



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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: REPEALED	Complies: REPEALED
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



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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
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 The site maintains sufficient existing parking and maintains the requirements of schedule 17.



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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 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

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

REPs: Applicable?: ☐ Yes ☒ No

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 93 & 94 (Fire Safety) 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



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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 ☐ 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

Applicable Legislation/ EPI's /Policies:

- | | |
|--|---|
| ☒ EPA Act 1979 | ☐ Swimming Pools Act 1992; |
| ☒ EPA Regulations 2000 | ☒ SEPP No. 55 – Remediation of Land |
| ☐ Local Government Act 1993 | ☒ SEPP – infrastructure 2007 |
| ☐ Roads Act 1993 | ☒ SEPP BASIX |
| ☐ Rural Fires Act 1997 | ☒ WLEP 2000 |
| ☐ RFI Act 1948 | ☒ WDCP |
| ☐ Water Management Act 2000 | ☐ S94 Development Contributions Plan |
| ☐ Water Act 1912 | ☒ S94A Development Contributions Plan |
| | ☐ 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 One Submission Received
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. 8 notification letters were posted to the surrounding neighbours dated 12/09/08 with the submission date closing on 29/09/08.

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

Name	Address
Graeme Lee	10 Hunter St, NORTH BALGOWLAH

The following issues were raised in the submissions:

- Side boundary envelope;
- Limits solar access;
- Failure to notify;

The matters raised within the submissions are addressed as follows:

- Side boundary envelope;

Comment: The submission raised concerns over the inconsistency with the side boundary envelope. An assessment of the development application has been assessed under the 'Side Boundary Envelope' of the Built Form Controls and is considered acceptable. A further analysis can be found within this report under the 'Built Form Control'.



- Limits solar access;

Comment: The submission raised concerns to the limitation for solar access from the proposed first floor addition to 12 Hunter St, NORTH BALGOWLAH. The proposal does result in additional overshadowing however the proposal has been assessed under CL 62 which requires the development in the case of housing to not reduce sunlight to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9 am and 3 pm on June 21. Given this and with the information provided, the assessment of the proposed alterations and additions complies with clause 62 as the proposal does not reduce sunlight to less than 2 hours to open space.

- Failure to notify;

Comment: The submission raised concerns to the failure to notify the surrounding applicants. Council's records indicate that 8 notification letters were sent out to the surrounding letters No. 12 Hunter Street, North Balgowlah on the 12th of September 2008, thus resolving any issues arising from the submission.

Subject to the public exhibition not being received to the surrounding neighbours of 12 Hunter Street, NORTH BALGOWLAH, Council in accordance with the EPA Regulation 2000 and the applicable Development Control Plan sent out a second round of notification letters to the original, 8 surrounding neighbours dated 21/01/09 with the submission date closing on 4/02/09.

As a result of the second public exhibition of the application Council received an submission from:

Name	Address
Graeme Lee	10 Hunter St, NORTH BALGOWLAH

The following issues were raised in the submissions:

- The proposal does not comply with WLEP 2000 guide lines;
- Limits solar access;
- Side Boundary Envelope;

The matters raised within the submissions are addressed as follows:

- The proposal does not comply with the WLEP 2000 guide lines;

Comment: The submission raised concerns that the proposal does not comply with the WLEP 2000 guide lines. The applicant requested a Clause 20 under the WLEP 2000 over the inconsistency with the side boundary envelope. Notwithstanding 12 (2) (b) Council must consider such a request 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. An assessment of the development application has been assessed under the 'Side Boundary Envelope' of the Built Form Controls and is considered acceptable. A further analysis can be found within this report under the 'Built Form Control'.

- Limits solar access;

Comment: The submission raised the same concern to the limitation for solar access from the proposed first floor addition to 12 Hunter St, NORTH BALGOWLAH. The issue against '*limits solar access*' was addressed under the previous response to the original notification. As such the proposal does result in additional overshadowing however the proposal has been assessed under CL 62 which requires the development in the case of housing to not reduce sunlight to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9 am and 3 pm on June 21. Given this and with the information provided, the assessment of the proposed alterations and additions complies with clause 62 as the proposal does not reduce sunlight to less than 2 hours to open space.

- Side boundary envelope;

Comment: The second submission raised concerns over the inconsistency with the side boundary envelope. An assessment of the development application has been assessed under the 'Side Boundary Envelope' of the Built Form Controls and is considered acceptable. A further analysis can be found within this report under the 'Built Form Control'.

WLEP 2000

DESIRED FUTURE CHARACTER

The Manly Lagoon Suburbs locality will remain characterised by detached style housing with a pocket of apartment style housing in landscaped settings interspersed by a range of complementary and compatible uses. The development of further apartment style housing will be confined to the “medium density areas” shown on the map. Substantial regional parklands and bushland will remain significant elements of the locality.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality except in areas marked as “medium density areas” on the map. The street will be characterised by landscaped front gardens and consistent building setbacks. Unless exemptions are made to the housing 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 with the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving remnants of the natural landscape such as rock outcrops, 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, will integrate with the natural landscape and topography.

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 provided in clause 39.

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 Boundary Envelope Built Form Control, 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 proposal is for alterations and additions to an existing single storey dwelling, as such the locality will continue to be characterised by detached style housing.
- The proposal will result in a large landscaped area located in the front setback area which will allow for the street to be characterised by landscaped front setback.
- The construction of the alterations and additions will utilise materials that blend with the colours and textures of the natural landscape on site and locality.
- The existing natural features located on the site are unaffected by the proposal, enhancing and maintaining the localities relationship with the surrounding.
- The visual pattern and predominant scale of the locality will be maintained as the proposal does not add significant bulk to the dwelling located on the site.

BUILT FORM CONTROLS

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

Description of variations sought and reasons provided:



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Side Boundary Envelope Built Form Control

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 Comment: The Side Boundary Envelope does not comply with the requirements and it is considered that a Clause 20 is required. An analysis is located within section 2 of this report. Boundary: ☐ Nth ☒ Sth ☐ Est ☐ Wst ☐ Existing and unchanged or Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☒ No Complies: ☒ Yes ☐ No
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Requirement: Buildings must be sited within an envelope determined by projecting planes at 45 degrees from a height of 4 metres above natural ground level at the side boundaries within this locality.

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

Comment: The resulting non-complying Side Boundary Envelope which is located on the southern boundary of the dwelling and eaves are considered minor breaches. The breach is considered to add bulk to the building however when looking from neighboring properties it is considered to be acceptable as the breach will portray an acceptance of articulate flow as the amenity of the area is maintained by first floor additions and two storey dwellings. Assessed on its merits it is considered that the discrepancy of the projecting plane on the southern side of the dwelling does not allow the proposed to become visually dominant and maintains the existing dwelling style.

Preserve the amenity of the surrounding land:

Comment: The site maintains the amenity of the surrounding area by its location on site. The proposed does diminish access to sunlight to the adjoining property however the proposal complies with CL62. Access to sunlight to the adjoining neighbour's windows has been affected however sun light has not been reduced to less than 2 hours between 9 am and 3 pm on June 21 to the principle private open space. The dwelling and landscape design complements the character of the streetscape as the dominance of the street is of first floor additions. Views are not impacted upon to the neighbouring properties as the site slopes slightly away from the street creating a sense of outlook.

Provide separation between buildings:

Comment: The proposal maintains the separation between the adjoining buildings by conforming to the existing Side Boundary Setbacks of 0.9m and with the proposed been 3.85m on the southern side and 5.57m on the northern side. It is seen that the minimum requirements are met and the design of the dwelling creates a sense of openness.

Provide opportunities for landscaping:

Comment: The proposed location of the alterations and addition of a first floor to the existing dwelling house does not impact the opportunities for landscaping as sufficient landscaped areas will be retained at the front and rear of the dwelling and the planting of appropriate scale and density shrubbery with the buildings height, bulk and scale taken into consideration. Sufficient soft landscaped areas have also been located on the site as to allow for the natural infiltration of Stormwater on the property.

Create a sense of openness:

Comment: The extent of the first floor addition is contained to the front and middle of the site and when viewed from the rear and the street will maintain a satisfactory sense of openness on the whole site.

Having regard to the above, it is considered that the proposal, notwithstanding the variation to the Side Boundary Setback of the Built Form Control for the locality, is consistent with the Desired Future Character statement of G3 Manly Lagoon Suburbs.

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

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 Side Boundary Envelope of the Built Form Control (Development Standard) and as such pursuant to Clause 20(1) is Supported.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

• **CL62 Access to sunlight**

Requirement: This General Principle requires development in the case of housing to not reduce sunlight to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9 am and 3 pm on June 21, and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by development by more than 20%.

Area of inconsistency with control: The development is seen to reduce the access to sunlight to No. 10 Hunter St by less than two hours to the most eastern (Hunter St) side of the site.



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Merit Consideration of Non-compliance: The proposed plans provided to Council clearly stipulate the access to sunlight to No. 10 Hunter St has been diminished from the proposed alterations and additions. Stated under Clause 18(3) How will the built form of development be controlled*"Nothing in this plan requires development to comply strictly with a quantitative requirement made in any general principle of development control"*. The proposal provides more than six hours of sunlight to the rear of No. 10 Hunter St where the principle private open space is located. Shadowing does occur on the eastern proportion of the dwelling however the rooms are considered to be of low usage as they are of bedrooms and a laundry. Whilst the kitchen and living has been reduced to access to sunlight between 9am to 12noon it is considered that the variation of 1hr of sunlight will not have a long term detrimental effect. The alterations and additions are reasonable on the grounds outlined above and given the design it minimises the building bulk along the rear and side of the dwelling.

- **Clause 65 Privacy**

Requirement: This General Principle requires development to not cause unreasonable direct overlooking of habitable rooms and principal private open space of other dwellings.

Area of inconsistency with control: It is seen that the proposed balcony located on the western elevation allows for direct overlooking and allowance of close views of principle open space of the adjoining property. The minimum distance stated within the WLEP 2000 states i.e. ...*"less than 9 away"*.

Merit Consideration of Non-compliance: Proposed distance between the two dwellings (being No. 12 Hunter St and No. 10 Hunter St) area from the closest southern side is 3.85m. Windows located on the southern side are located within a hall way are considered to be of low usage. Windows located on the northern side are located within bed rooms and also are considered to be of low usage. As such do not cause unreasonable direct overlooking of habitable rooms and principle private open space of other dwellings, thus maintaining the requirements of clause 65 privacy.

- **Clause 66 Building Bulk**

Requirement: This General Principle requires buildings to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless otherwise stated by the Locality Statement.

Area of inconsistency with control: The proposed construction of a two storey is seen to visually dominate the street and its surroundings.

Merit Consideration of Non-compliance: This General Principle seeks to ensure that development does not dominate the streetscape by virtue of its bulk or is inconsistent with the scale of nearby development. The building is satisfactory in relation to this general principle as the front setback progressively steps in as the building progresses in height. Given the long wall planes the design uses appropriate articulation (e.g. the use of incorporated roof pitch and similar building materials with its surroundings) and is seen as to satisfy the general principle as the building is consistent with the scale of near by development. It is seen that the existing landscaping on site is of appropriate size and scale as to provide reduced affects of visual bulk from the proposed works. The development satisfies Clause 66 of WLEP2000.

OTHER MATTERS FOR FURTHER CONSIDERATION: NIL



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SECTION 3 – SITE INSPECTION ANALYSIS



Site area 888.5sqm

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 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

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

Clint Mills, Student Development Assessment Officer



Warringah Council

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.

Signed

Date

Clint Mills, Student Development Assessment Officer

The application is determined under the delegated authority of:

Signed

Date

Ailsa Prendergast, Team Leader, Development Assessment