



Warringah Council

RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA No. DA2008/1279

Assessment Officer: Maya Elnazer

Property Address: Lot 198 in DP 861088, No. 17 Mills Place Beacon Hill and Lot 199 in DP 861088, No. 19 Mills Place Beacon Hill.

Proposal Description: Demolition of existing dwelling at No. 19 Mills Place Beacon Hill and construction of three (3) dwellings on proposed Lots B, C, and D as per approved subdivision DA2008/0093.

Plan Reference: BH_01A, BH_02A, BH_03A, BH_04A, BH_05A, Lot B sheets 01 to 04, Lot C sheets 01 to 03, Lot D sheets 01 to 03, and Survey dated 13/03/08.

Background: The proposal was the subject of a pre-lodgement held on 10/07/2008 for which the applicant sought advice on a proposal for the construction of four new dwellings in accordance with the approved subdivision DA2008/0093. The plans and information supplied to the pre-lodgement were considered satisfactory and are generally consistent with the current applications with Council for the proposed Lots as created by the subdivision.

The current development application pertains to the three new dwellings to be constructed on respective Lots B, C, and D pursuant to the approved subdivision DA2008/0093. The current proposal also seeks to demolish the existing dwelling at No. 19 Mills Place and retain the swimming pool on the subject site which will form part of Lot B. It is noted separate development application DA2008/1509 lodged with Council on 24/10/2008 for the proposed new dwelling on Lot A was granted consent on 17/02/2009.

Additionally, due to the approved subdivision DA2008/0093 pending linen plan registration with the Lands Department, a special condition will be imposed in the Notice of Determination requiring for the registration of linen plans with the Lands Department prior to the release of the Construction Certificate.

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: \$1,179,528.00

Are S94A Contributions Applicable?

☒ Yes ☐ No

Warringah Section 94A Development Contributions Plan			
Contribution based on total development cost of		\$	1,179,528.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$11,206	6923
S94A Planning and Administration	0.05%	\$590	6924
Total	1.0%	\$11,795	

Notification Required?

☒ Yes ☐ No

Submissions Received?

☒ Yes ☐ No

Period of Public Exhibition?

☐ 14 days ☒ 21 days ☐ 30 days ☐ N/A

No. of Submissions: 1



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	☐ Existing and unchanged Proposed: Lot B – 5.8m to ridge. Lot C – 6.8m to ridge. Lot D – 7m to ridge. Complies: ☒ Yes ☐ No
Building Height (underside of upper most ceiling): Applicable: ☒ Yes ☐ No Requirement: ☒ 7.2m	☐ Existing and unchanged Proposed: Lot B – 5.5m to ceiling. Lot C – 6.5m to ceiling. Lot D – 6.7m to ceiling. Complies: ☒ Yes ☐ No
Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m	☐ Existing and unchanged Proposed: Lot B – Ground floor and first floor provide 4.9m to building façade and a feature wall setback 2.2m. Lot C – Ground floor 1.6m to garage and 8.8m to dwelling. First floor 6.5m to 8.8m. Lot D – Ground floor 8.6m. First floor 7.5m. Complies: ☐ Yes ☒ No (further assessment)



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Is the Corner Allotment / Secondary Street Frontage control applicable?: ☐ Yes ☒ No	
Housing Density: Applicable: ☒ Yes ☐ No Requirement: ☐ 1 dwelling per 450sqm ☒ 1 dwelling per 600sqm	☐ Existing and unchanged Proposed: Lot B – 1 dwelling / per 733sqm Lot C – 1 dwelling / per 652.3sqm Lot D – 1 dwelling / per 614sqm Complies: ☒ Yes ☐ No
Landscape Open Space: Applicable: ☒ Yes ☐ No Requirement: ☒ 40% (.....sqm) ☐ 50% (.....sqm)	☐ Existing and unchanged Proposed: Lot B - 42% (309sqm) Lot C - 43% (268sqm) Lot D - 46% (283sqm) Complies: ☒ Yes ☐ No
Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m Outbuildings: Applicable Requirement: ☒ 50% of rear setback ☐ Other	☐ Existing and unchanged Proposed: Lot B – 8.5m to existing swimming pool and 15.3m to dwelling. Lot C – 9.5m to dwelling and 5.2m to terrace (ground floor paved area). Lot D – Ground floor 5.8m and First floor 5.4m. Complies: ☐ Yes ☒ No (further assessment) Outbuildings: ☐ Existing and unchanged Proposed: Lot B – Less than 50% of rear setback. Lot C – Less than 50% of rear setback. Lot D – N/A no outbuildings. Complies: ☒ Yes ☐ No
Side Boundary Envelope: Applicable: ☒ Yes ☐ No Requirement: ☒ 4m / 45 degrees ☐ 5m / 45 degrees ☐ Other	Boundary: ☒ NE ☒ NW ☐ SE ☐ SW Lot B , Lot C, and Lot D: Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☒ No Complies: ☒ Yes ☐ No



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	Boundary: ☐ NE ☐ NW ☒ SE ☒ SW Lot B , Lot C, and Lot D: Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☒ No Complies: ☒ Yes ☐ No
Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary ☒ NE ☒ NW ☐ SE ☐ SW Proposed: Lot B – Ground floor 4.2m, First floor 2.7m Lot C – Ground floor 1.7m, First floor 1.7m Lot D – Ground floor 5m, First floor 4.2m Complies: ☒ Yes ☐ No Boundary ☒ NE ☐ NW ☒ SE ☐ SW Proposed: Lot B – Ground floor 5.5m, First floor 1m Lot C – Ground floor 2.1m, First floor 2.1m Lot D – Ground floor 1.2m, First floor 1.2m 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: Based on the previous land uses if the site likely to be contaminated? ☐ Yes ☒ No Is the site suitable for the proposed land use? ☒ Yes ☐ No
CL49 Remediation of Contaminated Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL49a Acid Sulfate Soils Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL50 Safety & Security Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
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



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CL53 Signs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL54 Provision and Location of Utility Services Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No All services are to be provided when the site is subdivided under DA2008/0093.
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
CL63 Landscaped Open Space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL63A Rear Building Setback Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No



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CL64 Private open space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL65 Privacy Applicable: ☒ Yes ☐ No The proposed development for each dwelling is designed and sited to ensure privacy is maintained between both the proposed new dwellings and the existing adjoining neighbours. The proposed dwelling on Lot B maintains a distance of approximately 14m from the only adjoining neighbour along the north-west boundary (No. 21 Mills Place). It is noted the proposed dwelling on Lot C does not adjoin any existing residential dwellings. The proposed dwelling on Lot D maintains a distance of approximately 16m to the swimming pool of the adjoining neighbour at No. 15 Mills Place and approximately 25m distance to the actual dwelling (Refer to further discussion under Notification & Submissions). The proposed development maintains sufficient separation and includes appropriate landscaping to screen terraces and areas of private open spaces between Lots B, C, and D. Each dwelling has been designed to ensure that they do not result in any unreasonable direct overlooking of habitable rooms and principle private open spaces of other dwellings, as such the proposal is considered satisfactory in addressing this general principle.	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL66 Building bulk Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL67 Roofs Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
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



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CL71 Parking facilities (visual impact) Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL72 Traffic access & safety Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL73 On-site Loading and Unloading Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL74 Provision of Carparking Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL75 Design of Carparking Areas Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL76 Management of Stormwater Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL77 Landfill Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL78 Erosion & Sedimentation Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL79 Heritage Control Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL81 Notice to Heritage Council Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL82 Development in the Vicinity of Heritage Items Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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CL83 Development of Known or Potential Archaeological Sites Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
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Schedules:

Schedule 5 State policies Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 6 Preservation of bushland Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 7 Matters for consideration in a subdivision of land Applicable: ☐ Yes ☒ No Schedule 7 has been satisfactorily addressed under the original subdivision DA2008/0093	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



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

Other Relevant Environmental Planning Instruments:

SEPPs: Applicable? ☒ Yes ☐ No

SEPP Basix: Applicable?

☒ Yes ☐ No

If yes: Has the applicant provided Basix Certification?

☒ Yes ☐ No

SEPP 55 Applicable?

☒ Yes ☐ No

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

☐ Yes ☒ No

Is the site suitable for the proposed land use?

☒ Yes ☐ No

SEPP Infrastructure

Applicable?

☒ Yes ☐ No

Is the proposal for a swimming pool: Existing swimming pool to be retained on Lot B.

Within 30m of an overhead line support structure?

☐ Yes ☒ No

Within 5m of an overhead power line ?

☐ Yes ☒ No

Does the proposal comply with the SEPP?

☒ Yes ☐ No

REPs: Applicable?: ☐ Yes ☒ No

EPA Regulation Considerations:

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

REFERRALS

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



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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
Energy Australia	☐ Yes ☒ No The original subdivision DA2008/0093 was referred to EnergyAustralia due to the proposal including the creation of an easement for electricity purposes. No objections were raised in response to the proposed subdivision. The current development application does not include structures within or immediately adjacent to electricity infrastructure and is therefore not required to be referred to the electricity supply authority.	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Waste Officer	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory

Applicable Legislation/ EPI's /Policies:

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

SECTION 79C EPA ACT 1979

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

SECTION 2 – ISSUES

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan. The application was notified to adjoining properties and advertised within the Manly Daily for a period of 14 days.

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

Name	Address
K R Nash & Associates on behalf of No. 15 Mills Place Beacon Hill.	No. 15 Mills Place Beacon Hill 2100.

The following issues were raised in the submissions:

- Proposed location of garbage structure may cause noise and offensive odours;
- Inadequate garbage bin facilities;
- Privacy concerns from No. 15 Mills Place in relation to Lot D;
- Loss of trees;
- Visitor car parking not provided;
- Inadequate landscaping;
- Subdivision design under approved DA2008/0093 is flawed;

The matters raised within the submission are addressed as follows:

- Proposed location of garbage structure may cause noise and offensive odours;

Comment: The communal bin bay is located within the front setback of the existing dwelling at No. 17 Mills Place. The bin bay is located at a distance of approximately 6m from the adjoining dwelling at No. 15 Mills Place and is not directly adjacent to any habitable areas or principal private open spaces. The location of the garbage structure is considered acceptable as it does not pose any detrimental impacts and will be enclosed within an appropriate structure. Furthermore the existing plantings adjacent to the bin bay along the boundary between No. 17 and No. 15 Mills Place will be maintained as part of the proposal. It is therefore considered the location of the bin bay is appropriate and the issue raised within this submission does not warrant refusal of the proposed development.

- Inadequate garbage bin facilities;

Comment: The proposed works have been referred to Council's Waste Officer to determine the suitability of the proposed waste facilities. No objections were raised to the proposed works subject to conditions to be included in the notice of determination. It is therefore considered that the provision of waste facilities is appropriate and the issue raised within this submission does not warrant refusal of the proposed development.

- Privacy concerns from No. 15 Mills Place in relation to Lot D;

Comment: The proposed development for each dwelling is designed and sited to ensure privacy is maintained between both the proposed new dwellings and the existing adjoining neighbours. The proposed dwelling on Lot D maintains a distance of approximately 16m to the swimming pool of the adjoining neighbour at No. 15 Mills Place and approximately 25m distance to the actual dwelling.

The proposed development maintains sufficient separation and includes appropriate landscaping to screen terraces and areas of private open spaces. The proposed dwelling on Lot D is not considered to result in any unreasonable direct overlooking of habitable rooms and principle private open spaces of adjoining dwellings, as such the issue raised within this submission does not warrant refusal of the development application.

- Loss of trees;

Comment: The proposed landscape plan and any associated tree removal has been assessed by Council's Landscape Officer. No objections were raised regarding the proposed landscape concept and special conditions have been provided by Council's Landscape Officer regarding landscaping. The issue raised does not warrant refusal of the development application.

- Visitor car parking not provided;

Comment: The proposal provides two (2) allocated car parking spaces per each dwelling in accordance with the requirements of the WLEP2000. Further hardstand areas are available along the driveways adjacent to the garages of each dwelling should any additional parking be required for visitors. The issue of loss of kerbside parking as raised within the submission is not considered detrimental as the existing front boundary of the proposed lots is only 18m and does not include any additional driveway crossings other than the approved Right-of-Way under DA2008/0093. The proposal does not change the existing limited kerbside parking available and does not warrant refusal of the development application.

- Inadequate landscaping;

Comment: The proposal includes a minimum of 40% landscaped open space for each Lot in accordance with the requirements of WLEP2000. The proposal includes a landscape concept plan which has been assessed by Council's Landscape Officer and is considered appropriate for the subject site. This issue does not warrant refusal of the development application.

- Subdivision design under approved DA2008/0093 is flawed;

Comment: The original subdivision DA2008/0093 was assessed against the WLEP2000 and all applicable controls and legislation. The subdivision design was assessed as satisfactory and consent was granted on 20/06/2008. The issue raised is not relevant and does not warrant refusal of the current development application.

MEDIATION

Has mediation been requested by the objectors?

☐ Yes / ☒ No

Has the applicant agreed to mediation?

☐ Yes / ☒ No - N/A

Has mediation been conducted?

☐ Yes / ☒ No

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.



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

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

Requirement: "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. "

Comment: The proposed development for three (3) single residential dwellings on respective Lots B, C, and D as per approved subdivision DA2008/0093 is in keeping with the character of detached style housing in a landscaped setting. The subject site is not identified as substantial regional parkland or bushland.

Requirement: "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."

Comment: The proposed dwellings on Lots B, C, and D do not have setbacks to street frontage, rather they maintain frontage to the Right-of-Way in a consistent pattern. The visual impact from the public street will not change from what is existing as the existing dwelling at No. 17 Mills Place provides an existing generous front setback of approximately 20m and the topography of the land falls towards the rear of the site. The proposed dwellings consist of varying two storey structures which is consistent with the predominant scale of existing detached style housing. The pattern and configuration is as per approved subdivision DA2008/0093.

Requirement: "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."

Comment: The proposed development will require removal of small trees which has been assessed as acceptable by Council's Landscape Officer. Overall the site does not feature indigenous tree canopy or natural landscape elements such as rock outcrops, bushland, or watercourses. The use of materials such as timber and lightweight cladding seeks to blend with the natural landscape and each development has been designed to respond to the natural topography of the land.

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

Comment: The site is not within a local retail centre. Therefore this requirement is not applicable to the proposed development.

BUILT FORM CONTROLS

As detail within Section 1 (Code Assessment) the proposed development fails to satisfy the Locality's front setback and rear setback Built Form Controls, accordingly, further assessment is provided hereunder.

Description of variations sought and reasons provided:

Front setback

Requirement: 6.5m

Area of inconsistency with control:

Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m Is the Corner Allotment / Secondary Street Frontage control applicable?: ☐ Yes ☒ No	☐ Existing and unchanged Proposed: Lot B – Ground floor and first floor provide 4.9m to building façade and a feature wall setback 2.2m. Lot C – Ground floor 1.6m to garage and 8.8m to dwelling. First floor 6.5m to 8.8m. Lot D – Ground floor 8.6m. First floor 7.5m. Complies: ☐ Yes ☒ No (further assessment)
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Merit Consideration of Non-compliance: In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the front setback control. Accordingly, compliance with the objectives are addressed below:

Objective 1: Create a sense of openness

The proposed dwellings on Lot B and Lot C do not have boundaries adjoining a public street, rather the dwellings are oriented to the Right-of-Way from where vehicles will access the garage and from where entries to the dwellings are located. The setback to the access way for Lot B is proposed to be 4.9m to the building façade and 2.2m to a perpendicular feature wall. Notwithstanding the numerical breach, the setbacks ensure that Lot B maintains a sense of openness and clear sight lines.

The proposed non-compliance for Lot C pertains to the ground floor garage and the remainder of the site increases the front setback to a maximum of 8.8m. The breach does not detract from the sense of openness provided by the site due to the generous side setbacks measuring at up to 14m. The unique location and shapes of both lots means that strict compliance with standard front setbacks are not suitable to impose, rather the developments are designed in response to the existing surrounding developments and with regard to the natural sloping topography.

Both Lot B and Lot C provide access and circulation down the sides and along the access way in addition to suitable landscaping to soften the impact of development. It is considered that the proposed orientation of each dwelling will not have implications upon the amenity of surrounding properties and is more suitable to the subdivision layout and topography. Furthermore, the proposal is consistent with the Desired Future Character Statement and is satisfactory in addressing the General Principles of development control.

Objective 2: Provide opportunities for landscaping

Both Lot B and Lot C provide extensive landscaping along the front and sides of their respective sites. The lots comply with the WLEP2000 requirement for landscaped open space within the G3 locality. The sites seek to provide appropriate landscaping that is commensurate with the scale of development which will soften the visual effects of the development and provide sufficient screening to private open spaces. Each lot is oriented and landscaped to maintain privacy between adjoining dwellings, as such the proposed numerical breach is considered acceptable in this instance.

Objective 3: Minimize the impact of development on the streetscape

The proposed dwellings on Lots B and C do not have setbacks to street frontage, rather they maintain frontage to the Right-of-Way in a consistent pattern. The visual impact from the public street will not change from what is existing as the existing dwelling at No. 17 Mills Place provides an existing generous



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front setback of approximately 20m and the topography of the land falls towards the rear of the site. The proposed dwellings consist of varying two storey structures which is consistent with the predominant scale of existing detached style housing.

Objective 4: Maintain the visual continuity and pattern of buildings, front gardens and landscape elements

The pattern and configuration is as per approved subdivision DA2008/0093. The visual continuity of the buildings is consistent along the Right-of-Way and each lot provides a landscaped front garden. Each site is considered to provide adequate articulation and is considered characteristic with the general scale of development within the streetscape. The proposed dwellings on Lots B and C will not be visible from Mills Place, as such the existing view from the street will remain unchanged. The landscape concept plan is considered appropriate in regards to the proposed landscape elements in addition to the use of building materials which seeks to blend with the natural landscape.

Objective: The provision for corner allotments relates to street corners

The site is not a corner allotment. Therefore this objective is not relevant to this development.

Rear setback

Requirement: 6m to structures and less than 50% of rear setback area for outbuildings

Area of inconsistency with control:

Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m Outbuildings: Applicable Requirement: ☒ 50% of rear setback ☐ Other	☐ Existing and unchanged Proposed: Lot B – 8.5m to existing swimming pool and 15.3m to dwelling. Lot C – 9.5m to dwelling and 5.2m to terrace (ground floor paved area). Lot D – Ground floor 5.8m and First floor 5.4m. Complies: ☐ Yes ☒ No (further assessment) Outbuildings: ☐ Existing and unchanged Proposed: Lot B – Less than 50% of rear setback. Lot C – Less than 50% of rear setback. Lot D – N/A no outbuildings. Complies: ☒ Yes ☐ No
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Merit Consideration of Non-compliance: In assessing this non-compliant element of the proposal, it is necessary to consider the objectives of the front setback control. Accordingly, compliance with the objectives are addressed below:

Objective 1: Create a sense of openness in rear yards

The non-compliance pertains to proposed Lot D where both the ground floor and first floor pose a minor breach of the rear setback control. The non-compliances are contained to the family room on the ground floor for a length of 5m and the living room/balcony on the first floor for a length of 8m. It is noted the remainder of the dwelling is considerably set back from the rear boundary. Furthermore the site provides generous side setbacks of up to 5m and an ample front setback of up to 14.8m.

The proposed non-compliance for Lot D is due to the unique shape and orientation of the allotment. The breach does not detract from the sense of openness provided by the site due to the remaining generous setbacks. The developments are designed in response to the existing surrounding developments with regard to the natural sloping topography.

Notwithstanding the numerical non-compliance the site will provide access and circulation down the sides and along the access way in addition to providing suitable landscaping to soften the impact of development. It is considered that the proposed orientation of each dwelling will not have implications upon the amenity of surrounding properties and is more suitable to the subdivision layout and topography. Furthermore, the proposal is consistent with the Desired Future Character Statement and is satisfactory in addressing the General Principles of development control.

Objective 2: Preserve the amenity of adjacent land

The proposed development on Lot D provides extensive landscaping along the front and sides of the site to ensure adequate separation. Furthermore the site provides appropriate landscaping that is commensurate with the scale of development which will soften the visual effects of the development and provide sufficient screening to private open spaces. The property adjacent to the boundary where the non-compliance is situated is Water Board Land owned by Sydney Water Corporation. The numerical non-compliance does not result in any detrimental impact to adjoining properties, as such the proposed numerical breach is considered acceptable in this instance.

Objective 3: Maintain the visual continuity and pattern of buildings, rear gardens and landscape elements

The pattern and configuration is as per approved subdivision DA2008/0093. The visual continuity of the building is consistent along the subdivision and each lot provides a landscaped rear garden. Each site is considered to provide adequate articulation and is considered characteristic with the general scale of development within the streetscape. The landscape concept plan is considered appropriate in regards to the proposed landscape elements in addition to the use of building materials which seeks to blend with the natural landscape.

Objective 4: Provide opportunities to maintain privacy between dwellings

The area of non-compliance on Lot D will be opposite the front setback of Lot C. The non-compliance is not considered to impede on the privacy of Lot C as the only structure within the front setback of Lot C is the garage which is non-habitable and a paved area on the ground floor. The principle private open space of Lot C is located to the rear of the site and will not be affected by the rear setback breach of Lot D. It should also be noted the landscape concept plan provides for screen plantings along the boundary between Lot C and lot D to ensure privacy between the sites. Furthermore the site on Lot C slopes downwards towards the rear which means any rooms/balconies on Lot D will look over the roof of Lot C according to the RL's provided.

The adjoining dwelling at No. 15 Mills Place will not be affected by the rear setback non-compliance as the location of the breach is of considerable distance from No. 15 Mills Place, being greater than 40m. Due to the reduced impact of the non-compliance to adjoining properties, it is therefore considered acceptable to support the clause 20 variation in this instance.

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



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provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

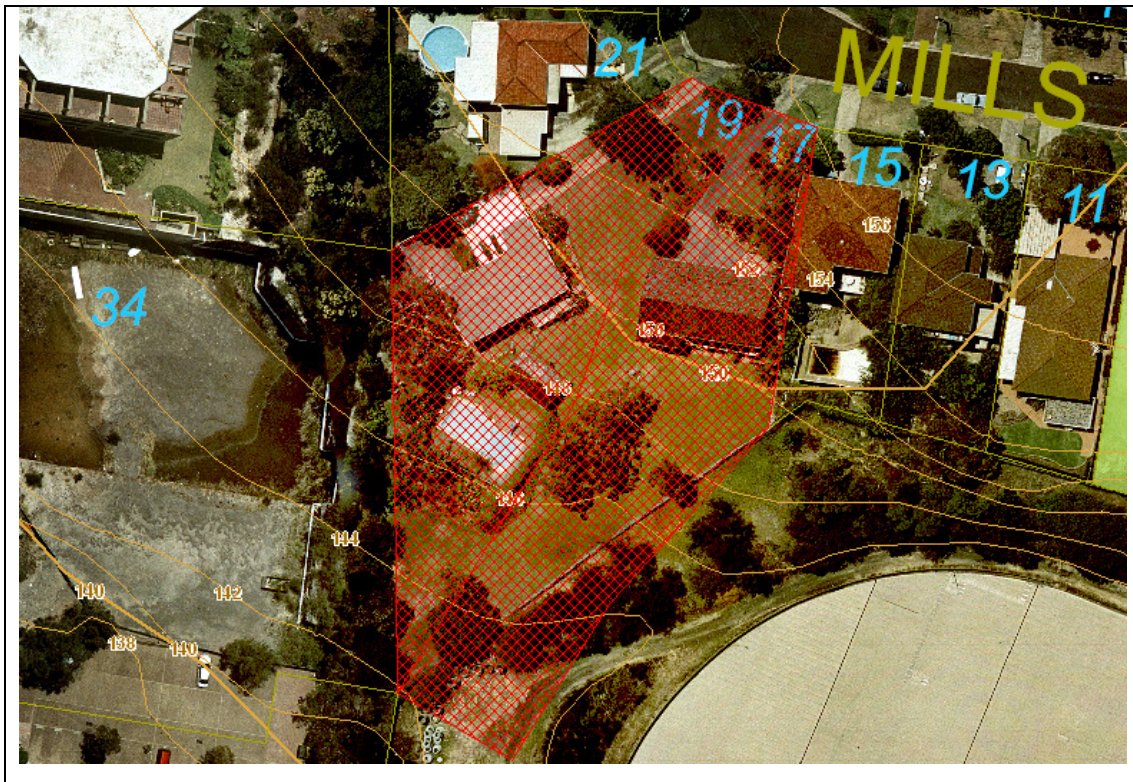
(iii) Relevant State Environmental Planning Policies

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

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1). It is for this reason that the variation to the front setback and rear setback Built Form Controls (Development Standard) pursuant to Clause 20(1) are supported.

OTHER MATTERS FOR FURTHER CONSIDERATION: N/A

SECTION 3 – SITE INSPECTION ANALYSIS



Site area: Lot B – 733sqm, Lot C – 652.3sqm, and Lot D – 614sqm

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): N/A

- ☐ 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



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Bushfire Prone?

☐ Yes ☒ No

Flood Prone?

☐ Yes ☒ No

Affected by Acid Sulfate Soils

☐ Yes ☒ No

Located within 40m of any natural watercourse?

☐ Yes ☒ No

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

☐ Yes ☒ No

Located within 100m of the mean high watermark?

☐ Yes ☒ No

Located within an area identified as a Wave Impact Zone?

☐ Yes ☒ No

Any items of heritage significance located upon it?

☐ Yes ☒ No

Located within the vicinity of any items of heritage significance?

☐ Yes ☒ No

Located within an area identified as potential land slip?

☐ Yes ☒ No

Is the development Integrated?

☐ Yes ☒ No

Does the development require concurrence?

☐ Yes ☒ No

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

☐ Yes ☒ No

Have you reviewed the DP and s88B instrument?

☒ Yes ☐ No

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

☐ Yes ☒ No



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Site Inspection / Desktop Assessment Undertaken by:

Does the site inspection <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 4 March 2009

Maya Elnazer, 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 4 March 2009

Maya Elnazer, Development Assessment Officer

The application is determined under the delegated authority of:

Signed

Date 4 March 2009

Amy Sutherland, Team Leader, Development Assessment