



RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA No. DA2009/1151

Assessment Officer: Phil Lane

Property Address: Lot 1 DP 226081, No. 41 Jindabyne Street, Frenchs Forest

Proposal Description: Alterations and additions to a dwelling, construction of a driveway and associated carparking.

Plan Reference: A-01, A-02, A-03 & A-04

History & Background: Pre-lodgement (PLM2009/0018) was held on 25 March 2009 with the following comments:

The proposed work to convert the existing carport to a habitable area is to be designed with no openings in the eastern elevation and carried out in accordance with Building Code of Australia. The proposed car parking spaces are to be designed in accordance with the Australian Standard 2890.1. Any permeable material used in the establishment of car park area 2 is not to be included in the calculations for landscaped open space.

Please be advised that Council are now obligated to advise compliance about the pool and request that they perform a pool fence inspection to ensure compliance.

Options to resolve swimming pool encroachment include:

1. Remove the encroachment and reconstruct the pool wholly within the property. A Development Application will be required detailing final location of the pool for Council's consideration and can be submitted in conjunction with the proposed carport works.
2. A lease agreement will need to be entered into in regard to the pool being located 480mm into the unformed road reserve. The requirements and process are outlined in Council's Policy on Encroachments/Constructions & Road Reserve Lease (GOV-PL 825). The encroachment would be assessed as Type 3 and the provisions outlined in the policy would apply.
3. Purchase the land from Council. The purchase of a portion of road reserve will require formal application to Council. Should you wish to consider pursuing this option, you are advised to contact Council's Property and Commercial Section.

Generally, the proponent of a road reserve closure needs to accept all associated costs as well as pay compensation for the land. The full amount of associated costs involved varies on the circumstances but as a guide it is currently considered to be in excess of \$10,000.00. This should not be viewed as a final costing and you should seek independent advice in relation to this. This amount includes but is not limited to items such as a Council application/administration fee of \$2,165.00, DOL Road Reserve Closure Application fee, survey plan and registration costs, valuation costs, Council legal costs and GST on the land. The cost of the land itself is to be determined by an independent qualified valuer.

This current application does not relate to the existing swimming pool and the encroachment issue in relation to the road reserve has been forwarded to compliance for action.

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: \$ 38760

Are S94A Contributions Applicable?

☐ Yes ☒ No



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Notification Required?

☒ Yes ☐ No

Submissions Received?

☐ Yes ☒ No

Period of Public Exhibition?

☒ 14 days ☐ 21 days ☐ 30 days ☐ N/A

No. of Submissions:

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

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

WLEP 2000

Locality: B1 Frenchs Forest East

The Frenchs Forest East locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain visual pattern and predominant scale of existing detached houses in the locality. The streets will be characterised by landscaped front gardens and consistent front 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 to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape including rock outcrops, remnant bushland and natural watercourses.

The use of materials that blend with the colours and textures of the natural landscape will be encouraged. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography.

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

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

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

Draft WLEP 2009 Permissible or Prohibited Land use: Permissible

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)



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Built Form Controls:

Building Height (overall): Applicable: ☒ Yes ☐ No Requirement: ☒ 8.5m ☐ 11.0m ☐ Other	☐ Existing and unchanged Proposed: 4.3m Complies: ☒ Yes ☐ No
Building Height (underside of upper most ceiling): Applicable: ☒ Yes ☐ No Requirement: ☒ 7.2m ☐ Other	☐ Existing and unchanged Proposed: 3.35m Complies: ☒ Yes ☐ No
Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m ☐ Other	☐ Existing and unchanged Proposed: 6.3m Complies: ☐ Yes ☒ No (Clause 20)
Housing Density: Applicable: ☒ Yes ☐ No Requirement: ☐ 1 dwelling per 450sqm ☒ 1 dwelling per 600sqm ☐ Other	☒ Existing and unchanged Proposed:dwelling / persqm Complies: ☐ Yes ☐ No
Landscape Open Space: Applicable: ☒ Yes ☐ No ☒ 40% (360sqm) ☐ 50% (.....sqm) ☐ Other	☐ Existing and unchanged Proposed: 50% (449.1sqm) Complies: ☒ Yes ☐ No



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Rear Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.0m ☐ Other	☐ Existing and unchanged Proposed: 10.6m Complies: ☒ Yes ☐ No
Side Boundary Envelope: Applicable: ☒ Yes ☐ No Requirement: ☒ 4m / 45 degrees ☐ 5m / 45 degrees ☐ Other	Boundary: ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☐ No Complies: ☒ Yes ☐ No Boundary: ☐ Nth ☒ Sth ☐ Est ☐ Wst ☐ Existing and unchanged or Fully within Envelope: ☒ Yes ☐ No Minor Breach: ☐ Yes ☐ No Complies: ☒ Yes ☐ No
Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary: ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Proposed: Nil to 1.6m (Existing) Complies: ☐ Yes ☒ No (Clause 20 as this component of the building is changing from non-habitable to habitable) Boundary: ☐ Nth ☒ Sth ☐ Est ☐ Wst ☐ Existing and unchanged or Proposed: 10.4m (Games room) Complies: ☒ Yes ☐ No
Other:	



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General Principles of Development Control:

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



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CL49 Remediation of Contaminated Land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL49a Acid Sulfate Soils Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL50 Safety & Security Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL51 Front Fences and Walls Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No Comment: The proposed retaining wall adjacent to carspace 2 is located 6m from the front boundary and given the difference between the top of the wall and the street (2.0m higher) the wall will not be readily visible.
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL53 Signs Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL54 Provision and Location of Utility Services Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL55 Site Consolidation in 'Medium Density Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL56 Retaining Unique Environmental Features on Site Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL57 Development on Sloping Land Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL58 Protection of Existing Flora Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No



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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
CL64 Private open space Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL65 Privacy Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL66 Building bulk Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL67 Roofs Applicable: ☒ Yes ☐ No	Complies: ☐ Yes ☒ Yes , subject to condition ☐ No
CL68 Conservation of Energy and Water Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL69 Accessibility – Public and Semi-Public Buildings Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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CL70 Site facilities Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
CL71 Parking facilities (visual impact) Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No Comment: The proposed car spaces are located 6m from the front boundary and given the difference between levels and existing vegetation located within the front setback it deemed that the proposed car spaces will have minimal impact to the existing streetscape.
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 Comment: The proposed two car spaces satisfy the requirements of Clause 74.
CL75 Design of Carparking Areas Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No Comment: The proposed two car spaces are of adequate dimensions.
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



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CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL81 Notice to Heritage Council Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL82 Development in the Vicinity of Heritage Items Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
CL83 Development of Known or Potential Archaeological Sites Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No

Schedules:

Schedule 5 State policies Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 6 Preservation of bushland Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 7 Matters for consideration in a subdivision of land Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 8 Site analysis Applicable: ☒ Yes ☐ No	Complies: ☒ Yes ☐ Yes , subject to condition ☐ No
Schedule 9 Notification requirements for remediation work Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No
Schedule 10 Traffic generating development Applicable: ☐ Yes ☒ No	Complies: ☐ Yes ☐ Yes , subject to condition ☐ No



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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

Other Relevant Environmental Planning Instruments:

SEPPs: Applicable? ☒ Yes ☐ No

SEPP Basix: Applicable?

☒ Yes ☐ No

If yes: Has the applicant provided Basix Certification?

☒ Yes ☐ No

SEPP 55 Applicable?

☒ Yes ☐ No

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

☐ Yes ☒ No

Is the site suitable for the proposed land use?

☒ Yes ☐ No



SEPP Infrastructure

Applicable?

☒ Yes ☐ No

Is the proposal for a swimming pool:

Within 30m of an overhead line support structure?

☐ Yes ☒ No

Within 5m of an overhead power line ?

☐ Yes ☒ No

Does the proposal comply with the SEPP?

☒ Yes ☐ No

REPs: Applicable?: ☐ Yes ☒ No

EPA Regulation Considerations:

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



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REFERRALS

Referral Body/Officer	Required	Response
Development Engineering	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory
Landscape Assessment	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory
Bushland Management	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Catchment Management	☒ Yes ☐ No	☒ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Aboriginal Heritage	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
Env. Health and Protection	☐ Yes ☒ No	☐ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory
NSW Rural Fire Service	☒ Yes ☐ No	☐ Satisfactory ☒ Satisfactory, subject to condition ☐ Unsatisfactory
Energy Australia	☒ Yes ☐ No	☒ Satisfactory ☐ Satisfactory, subject to condition ☐ Unsatisfactory

Applicable Legislation/ EPI's /Policies:

- | | |
|--|---|
| ☒ EPA Act 1979 | ☒ 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 (Draft WLEP 2009) |

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



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DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: Dwelling House

Land Use Zone: R2 Low Density Residential

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not Applicable

Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Height of Buildings:	8.5m	4.3m	Yes	Not Applicable

The proposed development is consistent with the aims and objectives of the Draft WLEP 2009.

SECTION 2

WLEP 2000

DESIRED FUTURE CHARACTER – B1 Frenchs Forest East

“The Frenchs Forest East locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses.

Future development will maintain visual pattern and predominant scale of existing detached houses in the locality. The streets will be characterised by landscaped front gardens and consistent front 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 to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape including rock outcrops, remnant bushland and natural watercourses.

The use of materials that blend with the colours and textures of the natural landscape will be encouraged. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography.

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

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

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

BUILT FORM CONTROLS

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

Description of variations sought and reasons provided:

Side Setback Built Form Control

Requirement:

Side Setbacks: Applicable: ☒ Yes ☐ No ☒ 900mm ☐ 4.5m ☐ Other	Boundary ☐ Nth ☐ Sth ☒ Est ☐ Wst ☐ Existing and unchanged or Proposed: Nil to 1.6m (Existing) Complies: ☐ Yes ☒ No (Clause 20 as this component of the building is changing from non-habitable to habitable) Boundary ☐ Nth ☒ Sth ☐ Est ☐ Wst
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	☐ Existing and unchanged or Proposed: 10.4m Complies: ☒ Yes ☐ No
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Area of inconsistency with control:

The proposed area of non-compliance consists of an existing carport been converted in to a games room. Though the existing wall will remain in the same position on the eastern side boundary it is recognised that this part of the building is been converted from non-habitable to habitable component and thus a variation is required in this instance.

Merit Consideration of Non-compliance:

Consideration of the proposal against the relevant merit considerations is detailed below:

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

Comment: The proposed new games room will be in the same location as the existing carport with a nil side setback to the eastern boundary. The new games room is of single storey construction, it is not considered this new structure will result in significant impacts upon the amenity of the adjoining property to the east of the subject site or visually dominant by virtue of its height and bulk.

- *Preserve the amenity of the surrounding land*

Comment: The proposal will not unreasonably reduce the amenity of adjoining and adjacent properties. With regards to the residential properties to the east of the subject site, given the extent of the non-compliance particularly to the eastern boundary is consistent with the existing carport. The new games room is single storey structure only with no openings in the eastern elevation, and it is not considered that the proposed non-compliance will result in unreasonable amenity impacts on adjoining properties.

- *Ensure that development responds to site topography*

Comment: Given that the proposed new games room is slab on ground and of single storey construction, it is considered that the proposal responds to site topography.

- *Provide separation between buildings*

Comment: Given that the proposal complies with the side boundary envelope and there is adequate separation to the adjoining residences to the east, it is considered that the proposal provides adequate separation between dwellings.

- *Provide opportunities for landscaping*

Comment: The proposal provides ample landscaped open space areas at the front and rear of the proposed dwelling, providing ample opportunities for landscaping.

- *Create a sense of openness*

Comment: Given that the proposed non-compliance is of low nature (single storey and below), it is considered that the proposal will successfully create a sense of openness.

Conclusion to Side Setback

Given the above consideration, it can be seen that the proposed non-compliance will not result in significant adverse impacts. Accordingly, subject to complying with the requirements of the General Principles of Development Control, the Desired Future Character Statement and relevant State Environmental Planning Policies, the proposal is considered eligible for a Clause 20 Variation to this Built Form Control.



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Description of variations sought and reasons provided:

Front Setback Built Form Control

Requirement:

Front Setback: Applicable: ☒ Yes ☐ No Requirement: ☒ 6.5m ☐ Other	☐ Existing and unchanged Proposed: 6.3m Complies: ☐ Yes ☒ No (Clause 20)
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Area of inconsistency with control:

The proposed open car spaces are non-compliant been located 6.3m setback from the front western boundary.

Merit Consideration of Non-compliance:

Consideration of the proposal against the relevant merit considerations is detailed below:

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

Comment: The proposal is an open car spaces are located below street level located within the front setback. The proposed car spaces will not result in unreasonable or significant impacts in relation to height or bulk upon the amenity of the adjoining properties.

- *Minimise the impact of development on the streetscape*

Comment: The proposal provides ample landscaped open space areas at the front and rear of the proposed dwelling, providing ample opportunities for landscaping.

- *Create a sense of openness*

Comment: Given that the proposed non-compliance is of low nature (single storey and below) and open style construction and of open design, it is considered that the proposal will successfully create a sense of openness.

- *The provision for corner allotments relates to street corners.*

Comment: Not applicable

Conclusion to Front Setback

Given the above consideration, it can be seen that the proposed non-compliance will not result in significant adverse impacts. Accordingly, subject to complying with the requirements of the General Principles of Development Control, the Desired Future Character Statement and relevant State Environmental Planning Policies, the proposal is considered eligible for a Clause 20 Variation to this Built Form Control.



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SECTION 3 – SITE INSPECTION ANALYSIS



Site area 899.6sqm

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):



Warringah Council

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

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

View of:

Bushfire Prone?

- ☒ Yes ☐ No

Flood Prone?

- ☐ Yes ☒ No

Affected by Acid Sulfate Soils

- ☐ Yes ☒ No

Located within 40m of any natural watercourse?

- ☒ Yes ☐ No

Comment: Only the south west corner of the property is located within the 40m buffer zone and proposed works are not located within this vicinity.

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



Warringah Council

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

Phil Lane, Senior Development Assessment Officer



SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, Draft Warringah Local Environmental Plan 2009 and the relevant codes and policies of Council. 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
- (a) the consent lapsing within three (3) from operation

"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 _____ Date _____

Phil Lane

Senior Development Assessment Officer

The application is determined under the delegated authority of:

Signed _____ Date _____

Rodney Piggott
Team Leader, Development Assessment