



Warringah Council

DA No.

RESIDENTIAL DEVELOPMENT - DEVELOPMENT APPLICATION ASSESSMENT REPORT

Development Application No:	DA2008/1206
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DEVELOPMENT APPLICATION DETAILS

Applicant Name:	<i>Mark Walter Harris</i>
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Applicant Address:	<i>3 Halloran Avenue DAVIDSON NSW 2085</i>
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Land to be developed (Address):	Lot 19, DP 246755, 3 Halloran Avenue DAVIDSON NSW 2085
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Proposed Development:	<i>Outbuildings and retaining walls with fencing</i>
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Assessment Officer: Keith Wright

Plan Reference: H-08-21157-1A to 6A as amended by Amendment A – 9/9/08

Report Section	Applicable	Complete & Attached
Section 1 – Code Assessment	Yes	Yes
Section 2 – Issues Assessment	Yes	Yes
Section 3 – Site Inspection Analysis	Yes	Yes
Section 4 – Application Determination	Yes	Yes



DA No.

LOCATION MAP



NORTH **^**



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DA No.

SECTION 1 – CODE ASSESSMENT REPORT

Estimated Cost of Works: \$35,879

Are S94A Contributions Applicable?

No

Is the subject site:

Bushfire Prone?

Yes

Flood Prone?

No

Affected by Acid Sulfate Soils

No

Located within 40m of any natural watercourse?

No

Located within 100m of the mean high watermark?

No

Located within an area identified as a Wave Impact Zone?

No

Any items of heritage significance located upon it?

No

Located within the vicinity of any items of heritage significance?

No

Located within an area identified as potential land slip?

No

Is the development Integrated?

No

Does the development require concurrence?

No

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

No

Notification Required?

Yes

Period of Public Exhibition?

14 days

Submissions Received?

Yes - 2

Applicable Controls:

EPA Act 1979

EPA Regulations 2000

SEPP No. 55 – Remediation of Land

SEPP BASIX

SEPP Infrastructure

WLEP 2000

WDCP

ENVIRONMENTAL PLANNING INSTRUMENTS

SEPP Basix:

Applicable?:

No

REPs: Applicable?: No

WLEP 2000

Development Definition: Housing

Locality: C1 Middle Harbour Suburbs

Category of Development: 1

Desired Future Character:

DESIRED FUTURE CHARACTER

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

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

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

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

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

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

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

Category 1 Development with no variations to BFC's .

Is the development considered to be consistent with the Locality's Desired Future Character Statement? Yes

Built Form Controls:

(NOTE: "FAR" = Further Assessment Required – Refer to Section 2)

Building Height (overall): Applicable: Yes	Requirement: 8.5m Proposed: max. 3.3m above excavated ground level for outbuildings and 2.7m above excavated ground level for the retaining wall adjacent to the outbuildings. Complies: Yes Proposed: max. 1.5m above ground level for the lower retaining wall Complies: Yes
Building Height (underside of upper most ceiling): Applicable: Yes	Requirement: ...7.2m Proposed:2.4m above excavated ground level. Complies: Yes
Front Setback: Applicable: No – development is at the side of the existing dwelling	
Housing Density: Applicable: No	Requirement: 1 dwelling / per 600sqm Proposed: 1 dwelling / per 955sqm Complies: Yes
Landscape Open Space: Applicable: Yes	Requirement: ...40% (382sqm) Proposed: ...Approx 42% (402sqm) Complies: Yes



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Rear Setback: Applicable: Yes	Requirement:6m Proposed:2.8m Complies: NO Requirements:50% Proposed:12% Complies: Yes
Side Boundary Envelope: Applicable: Yes	Boundary: West Requirement: ...4m / 45 degrees Fully within Envelope: Yes Complies: Yes
Side Setbacks (outbuildings): Applicable: Yes	Boundary: West Requirement: ... 900mm Proposed: ... 900mm Complies: Yes

General Principles of Development Control:

General Principle	Complies
CL38 Glare & reflections Applicable: Yes	The Development does not result in overspill or glare from artificial illumination, or sun reflection, and does not unreasonably diminish the amenity of the locality. The development is satisfactory in addressing the General Principle.
CL42 Construction Sites Applicable: Yes	The proposed construction site does not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment and is satisfactory in addressing the General Principle.
CL43 Noise Applicable: Yes	Development will not result in noise emission, which would unreasonably diminish the amenity of the area and will not result in noise intrusion, which would be unreasonable to surrounding residents.
CL44 Pollutants Applicable: No	No Comment
CL45 Hazardous Uses Applicable: No	No Comment



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CL46 Radiation Emission Levels Applicable: No	No Comment
CL47 Flood Affected Land Applicable: No	No Comment
CL48 Potentially Contaminated Land Applicable: Yes	Records indicate a residential history for the subject site and as such the site poses no risk of contamination and therefore no further consideration is required under Clause 48 of WLEP 2000 or SEPP 55.
CL49 Remediation of Contaminated Land Applicable: No	No Comment
CL49a Acid Sulfate Soils Applicable: No	No Comment
CL50 Safety & Security Applicable: No	No Comment
CL51 Front Fences and Walls Applicable: No	The proposed front fencing has been designed to integrate into the existing streetscape and street setback. The fencing also provides adequate opportunity of casual surveillance to street front. As such the proposal complies with the provisions of Clause 51 of WLEP 2000.
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces Applicable: No	No Comment
CL54 Provision and Location of Utility Services Applicable: No	No Comment
CL56 Retaining Unique Environmental Features on Site Applicable: No	No Comment



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CL57 Development on Sloping Land Applicable: Yes	The development responds to the site conditions. As such the proposal complies with the provisions of Clause 51 of WLEP 2000.
CL58 Protection of Existing Flora Applicable: No	No Comment
CL59 Koala Habitat Protection Applicable: No	No Comment
CL60 Watercourses & Aquatic Habitats Applicable: No	No Comment
CL61 Views Applicable: Yes	There are no views across this site, which would be impacted by the proposed development. Accordingly no view loss or view obstruction will occur. The proposal is satisfactory in this regard.
CL62 Access to sunlight Applicable: Yes	The development does not unreasonably reduce sunlight to surrounding properties. It is considered that reasonable and equitable level of sunlight is maintained and the development is satisfactory in addressing the General Principle.
CL63 Landscaped Open Space Applicable: Yes	The landscaped open space provision for the site complies with the numerical requirements contained within Warringah LEP 2000. Accordingly, the proposal is considered satisfactory in terms of landscaped open space.
CL63A Rear Building Setback Applicable: Yes	The rear setback complies with the Built Form Control and is thus satisfactory.
CL64 Private open space Applicable: No	No Comment



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CL65 Privacy Applicable: Yes	The Development does not cause unreasonable direct overlooking of habitable rooms and principal private open spaces of adjoining dwellings and is satisfactory in addressing the General Principle.
CL66 Building bulk Applicable: Yes	The development is considered to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and does not visually dominate the street or surrounding spaces. The development is consistent with the predominant pattern and scale of development in the immediate locality.
CL67 Roofs Applicable: No	No Comment
CL68 Conservation of Energy and Water Applicable: No	No Comment
CL70 Site facilities Applicable: No	No Comment
CL71 Parking facilities (visual impact) Applicable: No	No Comment
CL72 Traffic access & safety Applicable: No	No Comment
CL73 On-site Loading and Unloading Applicable: No	No Comment
CL74 Provision of Carparking Applicable: Yes	Two (2) car spaces are provided on-site, satisfying the parking requirements of Schedule 17 of the Warringah LEP 2000.



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CL75 Design of Carparking Areas Applicable: Yes	The proposed works do not impact on safe manoeuvring opportunities for vehicles on-site and satisfying the requirements of this general principle. Dimensions are satisfactory.
CL76 Management of Stormwater Applicable: Yes	The proposal was referred to the Development Engineers, who responded advising that there were no objections to the proposal subject to conditions.
CL77 Landfill Applicable: No	No Comment
CL78 Erosion & Sedimentation Applicable: Yes	Development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site is considered satisfactory to meet the requirements of Clause 78 of WLEP2000.
CL79 Heritage Control Applicable: No	No Comment
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service Applicable: No	No Comment
CL81 Notice to Heritage Council Applicable: No	No Comment
CL82 Development in the Vicinity of Heritage Items Applicable: No	No Comment
CL83 Development of Known or Potential Archaeological Sites Applicable: No	No Comment

Schedules:

Schedule 17 Carparking provision Applicable: Yes	Complies: Yes
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EPA Regulation Considerations:

Clause 54 & 109 (Stop the Clock) Applicable: Yes	Matters raised in correspondence to the applicant have been satisfied.
Clause 92 (Demolition of Structures) Applicable: No	No Comment
Clause 93 & 94 (Fire Safety) Applicable: No	No Comment
Clause 98 (BCA) Applicable: No	No Comment

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

SECTION 79C EPA ACT 1979

Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	Yes
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 79C (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	N/a
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
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
Section 79C (1) (c) – Is the site suitable for the development?	Yes
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	Yes
Section 79C (1) (e) – Is the proposal in the public interest?	Yes

SECTION 2 – ISSUES

(Note to DAO, delete Section 2 if not applicable.)

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

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

Name	Address
Pallister	5 Halloran Avenue, Davidson
Cooper	5 Stone Parade, Davidson

The following issues were raised in the submissions:

Pallister re development adjacent to the western boundary

- View loss;
- Works have commenced;
- Trees;

Cooper re development adjacent to the eastern boundary

- Visual impact;
- Privacy;
- Sunlight;
- Trees;

The matters raised within the submissions are addressed as follows:

- View loss;

Comment: This view loss will be from the window at the front of the dwelling on the western side towards the bushland in the distance. The loss will be caused by a proposed timber fence shown on the western boundary.

Following discussions with the applicant and new advice that that the fence may be constructed Colorbond and not timber, as first planned, it was suggested that the fence be deleted from the proposal and that its construction be negotiated with the neighbour under the Dividing Fences Act. It was advised that Colorbond fences will need a development application but no application needs to be lodged for a timber fence under the Exemptions provisions of Warringah LEP 2000.

- Works have commenced;

Comment: Excavation works have been carried out adjacent to the western boundary. These unauthorised works already has been addressed by Council's Compliance section.

- Trees;



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Comment: Two trees on the western side of the proposed outbuildings are proposed to be removed. Advice from Council's Landscape officer is that the trees are very close to the retaining wall and therefore may be removed. Also, being in an Inner Protection Area as outlined in the Rural Fire Service documentation, the trees should be removed.

There is a question as to whose property the trees are located. A condition of consent will specify approval for removal only of trees located on the applicant's property.

- Visual impact;

Comment: The concern from the eastern neighbour on the low side of the proposed retaining wall is that it will be visually intrusive.

Following discussions with the applicant, it has been stated that the retaining wall is intended to contain some fill on the site that emanated from the excavation for the proposed outbuildings. The wall will be built above an existing retaining wall and will level out a low section of the rear yard.. The actual height and position of the proposed retaining wall is not important and the applicant agreed that it can be moved further back as required by Council to negate the problems raised by this objector including privacy, sunlight and trees.

A condition of consent will require that the wall be moved at least 1 metre away from the boundary and be clear of the existing Jacaranda trees in the south-east corner.

- Privacy;

Comment: See comments above.

- Sunlight;

Comment: See comments above.

- Trees;

Comment: The two Jacaranda trees in the south-east corner can be retained by moving the retaining wall back as mentioned above.

MEDIATION

Has mediation been requested by the objectors?

No



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SECTION 3 – SITE INSPECTION ANALYSIS

Site area955sqm

Potential View Loss as a result of development

Detail existing onsite structures:

No

Dwelling

If Yes where from (in relation to site):

Site Orientation

☒ North / South

North/South

☐ East / West

Cross Fall:20%

☐ North East / South West

☐ North West / South East

☐ North / South

View of:

☒ East / West

Ocean / Waterways No

☐ North East / South West

Headland No

☐ North West / South East

District Views No

Cross Fall:20%

Bushland Yes

Other:

Site Features:

If Yes to Under Storey Vegetation:

☒ Trees

☐ Minimal

☐ Under Storey Vegetation

☐ Dense Cover with Gaps

☐ Rock Outcrops

☐ Continuous Dense Cover

☐ Caves

☐ Overhangs

☐ Waterfalls

☐ Creeks / Watercourse

☐ Aboriginal Art / Carvings



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☐ Any Item of / or any potential item of heritage significance

SEPP Infrastructure
Applicable?

☒ Yes ☐ No

If Yes to Trees to be impacted upon by the development (to be determined by the assessing officer):

Tree Cover

☒ Few

☐ Medium

☐ Dense

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

Trees with hollows?

☐ Yes ☒ No

Does the proposal comply with the SEPP?

Living Trees?

☒ Yes ☐ No

☒ Yes ☐ No

Dead Trees?

☐ Yes ☒ No



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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

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

Signed

Date

Keith Wright

25/11/08

Senior Development Assessment Officer

The application is determined under the delegated authority of:

Signed

Date

Ailsa Prendergast, Team Leader Development Assessments

25/11/08