

3.3**61 Lincoln Avenue, Collaroy – Alterations and Additions to a Dwelling House and Use of Premises as a Secondary Dwelling (Affordable Rental Housing) 2009****DEVELOPMENT ASSESSMENT REPORT**

Assessment Officer: Phil Lane

Address / Property Description: Lot 52, DP 242932
No. 61 Lincoln Avenue, Collaroy
Alterations and additions to a dwelling house and use of premises as a secondary dwelling made pursuant to SEPP (Affordable Rental Housing) 2009

Development Application No: DA2010/1325

Application Lodged: 24/08/2010

Plans Reference: DA001, DA02, DA01, DA03, B1896/73 (Sheets 1, 2, 3, 4, 5, 8 & 9)

Applicant: GAT & Associates

Owner: G & C Logarzo

Locality: E1 Dee Why North

Category: Category One

Draft WLEP 2009 Permissible or Prohibited Land use: Permissible

Variations to Controls (Cl.20/Cl.18(3)): Not Applicable

Referred to ADP: Yes – (more than 2 unresolved objections)

Referred to WDAP: No

Land and Environment Court Action: No court action to date

SUMMARY

Submissions: Seven (7) submissions from six (6) property owners.

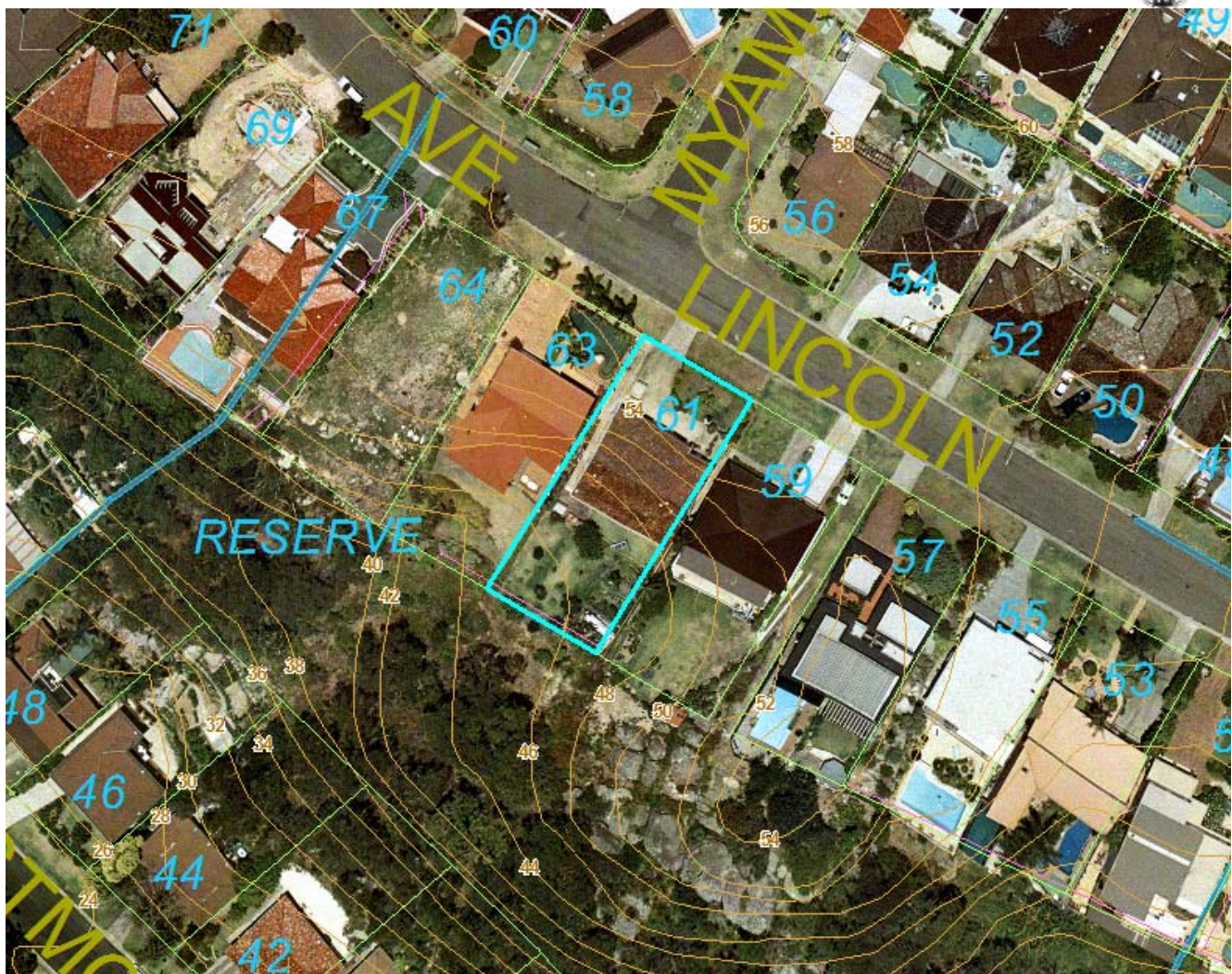
Submission Issues: Notification procedure, traffic and noise impacts, parking provision, breach of covenant, site access inadequate, BCA compliance, housing density, impact on property values, inconsistent with surrounding development, estimated costs of works, previous illegal uses & not in the public interest.

Assessment Issues: SEPP (Affordable Rental Housing) 2009.

Recommendation: Approval

Attachments: Site Plan and Elevations

LOCALITY PLAN (not to scale)



Subject Site: Lot 52 in DP 242932, No. 61 Lincoln Avenue, Collaroy

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 12 adjoining land owners.

SITE DESCRIPTION

The subject site is located on the southern side of Lincoln Avenue, between Suffolk Avenue to the east and Plateau Road to the west. The subject site is known as Lot 52 in DP 242932, No. 61 Lincoln Avenue, Collaroy.

The site consists of one allotment and is rectangular shaped, with a frontage and a rear width of 19.505 metres. The length of the site is approximately 45.72 metres giving an overall area of 893.6sqm.

Existing on the site is a four (4) storey residential building which comprises a main dwelling and two (2) unauthorised occupancies within the lower levels. The site is surrounded by residential dwellings of the similar bulk and scale with open space area to the rear and landscaped front gardens.



Photo 1: Subject site – No. 61 Lincoln Avenue, Collaroy

SITE HISTORY

Council issued a *“Notice of Intention to Serve an Order”* on 27th May, 2008 and an *“Order”* served on 9th October, 2008, outlining the unauthorised use of the building as *“dual occupancy”*. In response, the owner lodged the current Development Application and a concurrent building certificate application was lodged on 14 November, 2008 for works carried out on the site to formalise the concrete floor slab separating the Lower Ground Level 1 and Lower Ground Level 2.

The original approval for the dwelling house (Building Approval B1896/73) issued in 1973 showed *“future floors and openings”* where works were later undertaken to create the additional units to the Lower Ground Levels. The works to create the separate occupancies on the lower levels were completed over 35 years ago and so the site has been used as a dual occupancy for a considerable length of time (greater than 20 years). The use of the lower ground level 2 was commenced in more recent times (less than 5 years). To date, there are no approvals for the use of lower levels beneath the main dwelling.

DA2008/1577 – *“To regularise the use of an existing residential building as a dual occupancy.”* The proposal sought approval to regularise the use of the Lower Ground Level 1 (Flat 1) to be used as a second residence as the proposal did not satisfy the granny flat provisions under WLEP 2000 (i.e. maximum of 60sqm), as the existing *“Flat 1”* residence has an area of 87.5sqm. The Lower Ground Floor 2 containing *“Flat 2”* will be converted back into a storage area, the kitchen will be removed and the area will operate as storage for the main residence.

The application was refused by the Application Determination Panel on 19 March 2009 for the following reasons:

1. *"Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with the housing density provisions for the E1 – Dee Why North Locality under Warringah Local Environmental Plan 2000.*
2. *Inadequate information has been submitted to allow a complete and proper assessment of the application. In this regard, the architectural plans submitted in support of the development application are deficient in the following respects:*
 - a) *The application did not contain a "Site Plan" clearly indicating the location of the two dwellings, carparking and private open space areas relative to site boundaries, the public road and adjoining properties.*
 - b) *The floor plans of the dwellings do not clearly differentiate between the two dwellings and the respective floorspace associated with each dwelling.*
 - c) *The plans do not clearly indicate the allocation of carparking for each dwelling.*
 - d) *The plans do not contain sectional details of the proposed second dwelling.*
 - e) *The plans are not dimensioned.*
 - f) *The plans are not properly labelled and clearly indicating the proposed development and the dwelling numbers."*

REV2009/0008 – "Section 82A Review of Determination of DA2008/1577 to regularise the use of an existing residential building as a dual occupancy".

The application was refused by the Application Determination Panel on 19 November 2009 for the following reasons:

- 1) *"Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with the housing density provisions for the E1 – Dee Why North Locality under Warringah Local Environmental Plan 2000.*
- 2) *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act, 1979, The proposal has failed to achieve consistency with the following General Principles:*
 - a. *Clause 54 Provision and Location of Utility Services*
 - b. *Clause 64 Private Open Space*
 - c. *Clause 70 Site Facilities*
 - d. *Clause 74 Provision of Carparking*
 - e. *Clause 75 Design of Carparking Areas*
- 3) *Inadequate information has been submitted to allow a complete and proper assessment of the application. In this regard, the architectural plans submitted in support of the development application are deficient in the following respects:*
 - a. *The application did not contain a "Site Plan" clearly indicating the location of the two dwellings, carparking and private open space areas relative to site boundaries, the public road and adjoining properties.*
 - b. *The floor plans of the dwellings do not clearly differentiate between the two dwellings and the respective floor space associated with each dwelling.*
 - c. *The plans do not clearly indicate the allocation of carparking for each dwelling.*

- d. *The plans do not contain sectional details of the proposed second dwelling*
 - e. *The plans are not dimensioned.*
 - f. *The plans are not properly labelled and clearly indicating the proposed development and the dwelling numbers.*
- 4) *The proposal is contrary to existing consent BA1896/73 as:*
- a. *The building at one time was separated into three (3) separate dwellings, constituting a residential flat building, and that at the time of the lodgement of the subject review the building is proposed to have two (2) separate dwellings.*
 - b. *No application was made to construct the lower ground floor and therefore the Building Certificate lodged is to legalise works.*
- 5) *Pursuant to Section 79C (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979, the provisions of the draft environmental planning instrument WLEP 2009 have been considered. The proposal is defined as a dual occupancy under the Draft WLEP 2009. Dual occupancies are prohibited development within Zone R2 Low Density Residential.*
- 6) *Pursuant to Section 79C (1) (e) of the Environmental Planning and Assessment Act, 1979, the proposed development is not in the public interest in the broader sense as the proposal undermines the local planning controls, and is not in the public interest from a sectionalised perspective given the large number of public objection and significant departure from the housing density control."*

PROPOSED DEVELOPMENT

The application seeks consent the use of the Lower Ground Level 1 to be used as a secondary dwelling, under the provisions of SEPP (Affordable Rental Housing) 2009. The application has been made pursuant to SEPP (Affordable Rental Housing) 2009 to permit the use of the Lower Ground Level 1 (as shown on DA02) to be used as a secondary dwelling. The room configuration of the Lower Ground Level 1 comprises a kitchen, dining/lounge, bedroom, laundry and bathroom. Minor internal works will involve the construction an internal walls reducing the internal floor area to 60sqm. A new door is also proposed, providing access to the store room at this level with an infill wall to be constructed between the kitchen and proposed store room.

The Lower Ground Level 2 will be converted into a storage area with the kitchen removed.

The existing building footprint will not be altered as a result of this proposal.

A concurrent building certificate (BC2008/0189) for works carried out on the site has also been lodged which is currently deferred (awaiting determination of this current application).

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) State Environmental Planning Policy No. 55 – Remediation of Land
- d) State Environmental Planning Policy (Infrastructure) 2007
- e) State Environmental Planning Policy (Affordable Rental Housing) 2009
- f) Warringah Local Environment Plan 2000
- g) Warringah Development Control Plan
- h) Draft Warringah Local Environment Plan 2009

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 12 adjoining land owners and occupiers.

As a result of the public exhibition process Council received seven (7) submissions from six (6) property owners. Submissions have been received from:

Nicola, Antoinette, Peter & Michelle Cetrangolo (twice)	No. 59 Lincoln Avenue, Collaroy
James Kirby & Diane Therese Kirby	No. 57 Lincoln Avenue, Collaroy
Aldo Vallelonga	No. 56 Lincoln Avenue, Collaroy
Gina Teofilo	No. 1 Stella Street, Collaroy Plateau
Carlo Rossi & Sue Rossi	No. 54 Lincoln Avenue, Collaroy
Cass Greco	No. 70 Lincoln Avenue, Collaroy

The following issues were raised in the submissions and each has been addressed below:

1. Notification procedure,
2. Traffic and noise impacts,
3. Parking provision,
4. Breach of covenant restricting use of property for rental purposes,
5. Site access inadequate,
6. BCA compliance,
7. Housing density,
8. Impact to property values,
9. Inconsistent with surrounding development,
10. Estimated costs of works
11. Previous illegal uses
12. Not in the public interest

1. **Notification procedure:** Issues were raised in relation to notification of the proposed development.

Comments: The subject application has been notified in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 24 June 2008). All processes have been carried out in accordance with the relevant legislation and policies. Accordingly, the concern raised does not carry a determining weight.

2. **Traffic and noise impacts:** Issues were raised in relation to the increased traffic and noise generated by the additional residences parking on Lincoln Avenue.

Comments: The proposal is seeking approval for an additional residences containing one bedroom and a lounge/dining, kitchen and bathroom under State Environmental Planning Policy (Affordable Rental Housing) 2009. The continued residential use of the site is compatible with the residential nature of the locality. It is considered that the possible traffic impacts will not be detrimental to the locality and there is adequate provision for parking on-site to satisfy the requirements of WLEP 2000. This issue is considered to not carry a determining weight.

3. **Parking provision:** The previous issues had arisen from a number of vehicles associated with the subject site parking along Lincoln Avenue.

Comments: The current parking on the site allows for the provision of a double garage for the main residence and provision for one (1) parking space for the second dwelling (which is not required under State Environmental Planning Policy (Affordable Rental Housing) 2009. Though not required for this type of development (granny flat) there is the provision on an

additional carspace located behind the existing heavy planting along the Lincoln Avenue street frontage, which is located behind the 6.5m front building setback built form control.



Photo 2: Existing concrete parking area located at the front of the residence will allow for the one (1) vehicle for the second dwelling.

Accordingly, the concern raised within this submission does not warrant the refusal of the application.

4. **Breach of covenant restricting use of property for rental purposes:** Concerns were raised as to whether the use of a secondary dwelling (granny flat) may be in breach of a covenant restricting the use of the property for rental purposes.

Comments: Council could not find any breach of a covenant in relation to restricting the use of property for rental purposes. This a legal matter which Council does not hold jurisdiction over. WLEP 2000 states that:

"Clause 32 What effect do covenants and similar instruments have on development permitted by this plan?"

Any agreement, covenant or similar instrument to the extent that it purports to restrict or prohibit development allowed by this plan, or the granting of a consent, does not apply. This does not affect the rights or interests of any public authority under any registered instrument."

Accordingly, the concern raised within this submission does not warrant the refusal of the application.

5. **Site access inadequate:** Issues were raised in relation to pedestrian access to and from the proposed additional residence.

Comments: The pedestrian access located on the western side of the building allows for adequate access to and from the site. The door for the proposed residence is located just below the ground floor level and it is not considered that access to and from the site would be hindered in any significant manner or cause any unreasonable amenity impacts to adjoining properties. This issue does not carry a determining weight.

6. **BCA compliance:** Concerns were raised in relation to the Building Code of Australia, particularly with regards to stair access to the secondary dwelling. A condition has been included within the recommendation of the report which requires all proposed works to comply with the requirement of the Building Code of Australia. The concern raised in this regard are noted and addressed via a condition of consent.

7. **Housing Density:** Concern was raised in relation to the housing density non-compliance under WLEP 2000 for the E1 Dee Why North Locality.

Comments: The application has been lodged in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009, which allows for secondary dwelling to be located on the site. It is recognised that the Housing Density Built Form Control allows for maximum housing density of 1 dwelling per 600sqm.

Whilst the existing building maintains the visual character and relates to the established pattern and predominant scale of existing detached style housing within the street specifically and the locality generally, the proposed secondary dwelling will satisfy the criteria set by the SEPP and can be supported as the proposal satisfies the provisions of Section 79C (1) Matters for consideration under the EP&A Act 1979.

8. **Impact to property values:** Concerns were raised in relation to impacts to property values.

Comments: Property value is not a consideration under EP&A Act 1979 Therefore this concern is not a relevant consideration in the assessment of the proposed application.

9. **Inconsistent with surrounding development:** Concern was raised as to the proposals consistency with surrounding development.

Comments: With regard to the Desired Future Character of the E1 Locality, the proposal is considered to be consistent in terms of built form character and maintenance of the detached dwelling style of development within the Locality.

This issue does not carry a determining weight.

10. **Estimated costs of works**

Comments: The works proposed are minor works which include the brick up an existing doorway, the installation of stud wall to reduce the existing floor area of bedroom, remove of an existing window and installation of door and removal of a kitchen on the lowest level of the building. The estimate costs of \$5000 are justifiable and this issue does not carry a determining weight.

11. **Previous illegal uses**

Comments: It is recognised that the building has been previously been used for three (3) separate dwellings. Orders were served and the lower levels under the main residence have been vacated for more than 2 years. Approval is sought via this current application for the use of these areas (granny flat & storage – lower level 1 & storage – lower level 2).

The concern raised in this regard are noted and addressed via a condition of consent.

12. **Not in the public interest**

Comments: The proposal demonstrates general consistency with the planning controls under the WLEP 2000 and Draft WLEP 2009. The Essential Fire Safety Measures will be upgraded within the building, ensuring an updated and safer building complying with the most current legislation/requirements.

There are no matters in relation to the public interest that warrant refusal of the Development Application.

MEDIATION

No mediation was requested for this application.

LAND AND ENVIRONMENT COURT ACTION

No court action has been commenced for this application.

REFERRALS

External Referrals

Energy Australia

The development is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application was referred to Energy Australia with formal confirmation received on 5 September 2010 stating no objections to the development. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

Internal Referrals

Building Assessment & Compliance

Councils Building Assessment & Compliance Section has reviewed the proposal and has raised no objection subject to conditions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments, applicable SEPP's and WLEP 2000" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on "Draft Environmental Planning Instruments" in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal and has been taken into consideration.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	The EPA Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been addressed via a condition of consent. Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has been addressed via a condition of consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report. The proposal has adequate provision for parking onsite, adequate pedestrian access and availability to natural light and open space. Additionally, the housing density has been reviewed and provisions of SEPP Affordable Housing 2009 are deemed to be satisfactory. (ii) The proposed development will not have a detrimental social impact in the E1 Dee Why North residential locality considering the low density residential character of the proposal.

Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as there are no changes to the existing built form presently onsite. The proposal maintains the streetscape appearance of Lincoln Avenue, by maintaining the character of a single larger residence which is consistent with other residences in Lincoln Avenue and the surrounding locality. Additionally, the proposal allows for the provision of one (1) car space on site for the secondary dwelling without hindering the movement of vehicles from the garage on the street level for the main residence. Furthermore, the proposal does not seek approval/consent for strata subdivision or separate land title(s). A condition will be included to prevent any strata subdivision of the building.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report. The resident submissions do not warrant refusal of the application and/or are addressed/conditions of consent.
Section 79C (1) (e) – the public interest	The proposal demonstrates general consistency with the planning controls under the WLEP 2000 and Draft WLEP 2009. The Essential Fire Safety Measures will be upgraded within the building, ensuring an updated and safer building complying with the most current legislation/requirements. There are no matters in relation to the public interest that warrant refusal of the Development Application.

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

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: Not applicable

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Height of Buildings:	8.5m	7m	Yes	Not Applicable

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

State Environmental Planning Policy – BASIX

A BASIX certificate is not required to be submitted with the subject application as the cost of works are less than \$50,000.

State Environmental Planning Policy - Infrastructure

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 2 Secondary dwellings

19 Definition

In this Division:

development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note

The standard instrument defines secondary dwelling as follows:

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the ***principal dwelling***), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

Comment: The proposed secondary dwelling is located within the existing allotment in conjunction with another dwelling (the principal dwelling).

20 Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone R5 Large Lot Residential.

Comment: The land is identified as Zone R2 Low Density Residential.

21 Development to which Division applies

This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.

Comment: The proposal is compliant.

22 Development may be carried out with consent

- (1) Development to which this Division applies may be carried out with consent.

Comment: Consent may be granted for this development.

- (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.

Comment: The proposal seeks consent for a secondary dwelling with the principal dwelling remaining unaltered.

- (3) A consent authority must not consent to development to which this Division applies unless:
 - (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and

Comment: The secondary dwelling (granny flat) will comply with the provisions of the WLEP 2000 within the E1 Dee Why North Locality which states: *"granny flats are not considered to be a dwelling and are limited to one per allotment."*

- (b) The total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.

Comment: The proposed floor area is no more than 60 square meters and the WLEP 2000 has the same requirement (60sqm). The proposal will satisfy both the SEPP and the WLEP.

- (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:

(a) **site area**

if:

- (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or
- (ii) the site area is at least 450 square metres,

(b) **parking**

if no additional parking is to be provided on the site.

Comment: The secondary dwelling is located within the principal dwelling. The site has an area of 893.6sqm. One (1) carspace is provided on site and behind the front building setback.

- (5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Comment: The proposal complies with all standard set out in subclause (4).

Conclusion

The proposed secondary dwelling meets the above provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and is deemed to be compliant.

Regional Environment Plans (REPs)

Not applicable

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC) – E1 Dee Why North Locality

The subject site is located in the E1 Dee Why North Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

“The Dee Why North locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses

Future development will relate to the established pattern and predominant scale of detached houses in the locality and the streets will be characterised by landscaped front gardens and buildings which create a sense of address to those streets. The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops and remnant bushland will be preserved and development on prominent hillsides or hill tops must be designed to integrate with the landscape and topography and minimise visual impact when viewed from afar. 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 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."

The proposed development is defined as "housing" under WLEP 2000, which is identified as Category 1 development in this locality. Clause 12(3) (a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement. Accordingly, an analysis of the applicable component of the DFC is assessed below:

"The Dee Why North locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses."

Comment: Whilst the proposed development is for a secondary dwelling (granny flat), the additional occupancy is located entirely within the existing building which results in the development having the appearance of a detached style dwelling. The existing detached dwelling on the site will remain unaltered as part of this proposal. The landscaped setting will remain unaltered. The proposal is consistent with this requirement of the Desired Future Character in this regard

"Future development will relate to the established pattern and predominant scale of detached houses in the locality and the streets will be characterised by landscaped front gardens and buildings which create a sense of address to those streets. The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops and remnant bushland will be preserved and development on prominent hillsides or hill tops must be designed to integrate with the landscape and topography and minimise visual impact when viewed from afar. 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 proposal does not constitute building works to the existing detached dwelling on the site and will not change the existing pattern and scale of development within the locality. The front garden and building setbacks remain unaltered. The remaining natural landscape and environmental elements remain unaltered by the proposal. There are no subdivision works proposed as part of the development. The proposal is consistent with this requirement of the Desired Future Character in this regard.

In conclusion, the proposal is considered to satisfy the Desired Future Character statement for the locality.

Built Form Controls (Development Standards)

The following table outlines compliance with the relevant Built form Control of the above locality statement:

Built Form Standard	Required	Proposed Development	Compliance
Housing Density	1 dwelling per 600sqm	1 dwelling per 893.6sqm	Yes Note: development for the purposes of a secondary dwelling includes the following: (a) the erection of, or alterations or additions to, a secondary dwelling, (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling. Note. The standard instrument defines secondary dwelling as follows: secondary dwelling means a self-contained dwelling that: (a) is established in conjunction with another dwelling (the principal dwelling), and (b) is on the same lot of land (not being an individual lot in a strata

Built Form Standard	Required	Proposed Development	Compliance
			plan or community title scheme) as the principal dwelling, and (c) is located within, or is attached to, or is separate from, the principal dwelling.
Height of Buildings	8.5m	7m (existing)	Yes
Building Height (underside of upper most ceiling):	7.2m	6.8m (existing)	Yes
Landscape Open Space	40% (357.4sqm)	49.2% (440sqm) (existing)	Unchanged
Front Building Setback	6.5m	8.5m (existing)	Unchanged
Rear Building Setback	6m	23.2m (existing)	Unchanged
Side Boundary Envelope	4m @ 45 degrees (inside)	4m @ 45 degrees (outside) (existing)	Unchanged
Side Setback	0.9m	1.6m (eastern - existing) 1.4m (western - existing)	Unchanged

The proposed development is considered to satisfy the relevant Locality's Built Form Control, accordingly, no further assessment will be provided in this regard.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	NO	No comment	N/A
CL39 Local retail centres	NO	No comment	N/A
CL40 Housing for Older People and People with Disabilities	NO	No comment	N/A
CL41 Brothels	NO	No comment	N/A
CL42 Construction Sites	YES	The proposed demolition/rectification works should not result in any adverse impacts upon the surrounding traffic movements or existing safety of pedestrians in and around the site given the minor nature of the works. Relevant conditions of consent have been imposed in this regard.	YES, subject to conditions
CL43 Noise	YES	A condition of consent has been imposed requiring all noise emissions associated in the rectification works to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from construction/demolition works and these works must also comply with the provisions of the Protection of the Environment Operations Act 1997.	YES, subject to conditions
CL44 Pollutants	NO	No comment	N/A
CL45 Hazardous Uses	NO	No comment	N/A

General Principles	Applies	Comments	Complies
CL46 Radiation Emission Levels	NO	No comment	N/A
CL47 Flood Affected Land	NO	No comment	N/A
CL48 Potentially Contaminated Land	NO	No comment	N/A
CL49 Remediation of Contaminated Land	NO	No comment	N/A
CL49a Acid Sulfate Soils	NO	No comment	N/A
CL50 Safety & Security	YES	The proposed development is considered to maintain the safety and security of the locality.	YES
CL51 Front Fences and Walls	NO	No comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	No comment	N/A
CL53 Signs	NO	No comment	N/A
CL54 Provision and Location of Utility Services	YES	The site is satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage. The development meets the requirements of Clause 54 of WLEP 2000.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No comment	N/A
CL56 Retaining Unique Environmental Features on Site	NO	No comment	N/A
CL57 Development on Sloping Land	NO	No comment	N/A
CL58 Protection of Existing Flora	NO	No comment	N/A
CL59 Koala Habitat Protection	NO	No comment	N/A
CL60 Watercourses & Aquatic Habitats	NO	No comment	N/A
CL61 Views	NO	No comment	N/A
CL62 Access to sunlight	YES	The development does not unreasonably reduce sunlight to surrounding properties. It is considered that a reasonable and equitable level of sunlight is maintained and the development is satisfactory in addressing the General Principle.	YES
CL63 Landscaped Open Space	YES	It is considered that the proposed development provides an appropriate level of landscaped open space to ensure that the development continues to positively contribute to the amenity	YES

General Principles	Applies	Comments	Complies
		of the site for its users and the visual and scenic amenity of the locality.	
CL63A Rear Building Setback	NO	No Comment	N/A
CL64 Private open space	NO	No Comment	N/A
CL65 Privacy	Yes	The proposed development will not alter the privacy situation for habitable rooms or principal private open spaces of other dwellings.	Yes
CL66 Building bulk	NO	The bulk and scale of the existing dwelling will not be altered as a result of the proposed development.	N/A
CL67 Roofs	NO	No comment	N/A
CL68 Conservation of Energy and Water	NO	No comment	N/A
CL69 Accessibility – Public and Semi-Public Buildings	NO	No comment	N/A
CL70 Site facilities	YES	The site has existing provisions for clothes drying, a mailbox, and garbage and recycling facilities.	YES
CL71 Parking facilities (visual impact)	YES	The existing double garage provides for two (2) carparking spaces within the main building for the main residence. There is adequate provision for one (1) vehicle on the concrete area behind the heavily vegetated front boundary which screens the vehicles. Therefore, the proposal adequately addresses this clause.	YES



Photo 4: Position of additional parking space for the second residence (if required)

CL72 Traffic access & safety	NO	No comment	N/A
CL73 On-site Loading and Unloading	NO	No comment	N/A
CL74 Provision of Carparking	YES	There is adequate provision for parking on site and behind the front building setback for three (3) vehicles demonstrating compliance with this clause.	YES
CL75 Design of Carparking Areas	YES	The existing double garage is of adequate dimensions for the provision of two (2) vehicles and the open concrete area allows for the provision of one (1) vehicle, which is of adequate dimensions. The proposal satisfies this clause.	YES

CL76 Management of Stormwater	NO	No comment	N/A
CL77 Landfill	NO	No comment	N/A
General Principles	Applies	Comments	Complies
CL78 Erosion & Sedimentation	NO	No comment	N/A
CL79 Heritage Control	NO	No comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No comment	N/A
CL81 Notice to Heritage Council	NO	No comment	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No comment	N/A
CL83 Development of Known or Potential Archaeological Sites	YES	The site is identified as effected by Aboriginal Heritage. The works proposed are internal works with some minor external works not outside the existing footprint of the building and therefore the application was deemed not be referred to Aboriginal Heritage Council.	YES

SCHEDULES

Schedule 8 - Site analysis

Site Analysis	The application included a site plan as required under this schedule and adequate information is submitted within the statement of environment effects. The proposal therefore satisfies Schedule 8 of WLEP 2000.
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Schedule 17 - Carparking Provision

Carparking Provision	There is adequate provision for parking on site and behind the front building setback for three (3) vehicles demonstrating compliance with this clause.
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POLICY CONTROLS

Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

The proposal is subject to the application of Council's Section 94A Development Contributions Plan adopted by Council on 13 June 2006 and became effective on 17 July 2006.

As the estimated cost of works is less than \$100,000.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to any conditions contained within the Recommendation.

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.

All issues in relation to the submissions received have been taken into consideration and addressed and the proposal is deemed to be satisfactory. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

As a direct result of the application and the consideration of the matters detailed within this report it is considered that Council as the consent authority grant approval as detailed within the "Recommendation" section of this report.

RECOMMENDATION - APPROVAL

That Development Application No. DA2010/1325 for alterations and additions to the Dwelling House including the secondary dwelling (granny flat) on land at Lot 52 in DP 242932, No. 61 Lincoln Avenue, Collaroy be approved subject to the following conditions.

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA001	Nov. 08	Daniel Palamara
DA02	Nov. 08	Daniel Palamara
DA01	Nov. 08	Daniel Palamara
DA03	Nov. 08	Daniel Palamara
B1896/73 (Sheet 1)	22.10.73	Aldon Design & Construction
B1896/73 (Sheet 2)	22.10.73	Aldon Design & Construction
B1896/73 (Sheet 3)	22.10.73	Aldon Design & Construction
B1896/73 (Sheet 4)	22.10.73	Aldon Design & Construction
B1896/73 (Sheet 5)	22.10.73	Aldon Design & Construction
B1896/73 (Sheet 8)	22.10.73	Aldon Design & Construction
B1896/73 (Sheet 9)	22.10.73	Aldon Design & Construction

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

2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
Energy Australia	Response Energy Aust Referral	6 September 2010

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (DACPLB02)

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement. (DACPLB09)

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

7.00 am to 5.00 pm inclusive Monday to Friday

8.00 am to 1.00 pm inclusive on Saturday,

No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB (A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

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

5. Building Certificate for Unauthorised Works

An application for a Building Certificate is to be lodged and approved for all unauthorised works onsite.

Reason: To regularise unauthorised development.

6. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**

****Note:** the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

7. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

8. Strata Subdivision

The main residence (principal dwelling) and granny flat (secondary dwelling) are to remain on the same title of land. No strata, community or company title(s) may be entered into for the property known as Lot 52, DP 242932, No. 61 Lincoln Avenue, Collaroy.

Reason: To ensure compliance with WLEP 2000 – E1 Dee Why North (Housing Density)



Site Plan and Elevations

[illegible]