

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2014/0210
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Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot 11 DP 775997 , 156 - 164 Ocean Street NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent DA2014/0102 granted for Alterations and additions to an aged care facility and construction of underground water tanks
Zoning:	LEP - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Uniting Church In Australia
Applicant:	Malcolm Mcleod

Application lodged:	24/09/2014
Application Type:	Local
State Reporting Category:	Other
Notified:	09/10/2014 to 24/10/2014
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided

by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R3 Medium Density Residential

SITE DESCRIPTION

Property Description:	Lot 11 DP 775997 , 156 - 164 Ocean Street NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject land is known as Lot 11 in DP775997, L-shaped and surrounded by three streets, being Ocean Street (east), Lagoon Street (west) and Octavia Street (north). The site has an area of 9234m² and is occupied by an aged care facility known as Taylor Village.</p> <p>The site and area between Ocean Street and Lagoon Street combine to form a strip of land zoned as R3 Medium Density Residential. This strip of land is bordered to the east and west by land zoned as R2 Low Density Residential. Given the nexus between these two zones, development is generally characterised by two storey dwelling houses and residential flat buildings within landscape settings.</p> <p>The site is classified as 'Area A' under Council's potential Land Slip Map and is relatively flat. Vegetation on site consists of grass lawn areas, formal garden areas interspersed by native and non-native trees.</p>

Map:



SITE HISTORY

Development Application DA2014/0102

DA2014/0102 for the construction of underground water tanks was approved 6 May 2014.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No.DA2014/0102 in accordance with the provisions of Section 96 (1A) of the Environmental Planning and Assessment Act 1979 in the following way:

- Deletion of the approved underground sprinkler system and water tanks to comply with the requirements of the Environmental and Assessment Regulation 2000 (Clause 186k(1)).

An alternative solution has been found which comprises a fire rated wall to the basement level to separate between the carpark portion of the basement level and the laundry /lift towards the eastern end of the basement.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are: The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all

relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2014/0102, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2014/0102.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Public Exhibition" in this report.

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

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” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
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	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objection to the proposed modification.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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 5.0m 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 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended..

SEPP 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.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Up to a depth of 2.5m (underground)	N/A (deleted)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R3 Medium Density Residential

The proposal is not permissible within Zone R3 Medium Density land. However, it is permissible under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004.

Warringah Development Control Plan

Built Form Controls

Standard (Sprinkler system only)	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	0m	Deleted	N/A
B2 Number of Storeys	2	0	N/A	N/A
B7 Front Boundary Setbacks	Ocean Street (primary): 6.5m	2.155m	Deleted	N/A
	Octavia Street: (secondary): 3.5m	4.9m	Deleted	N/A
D1 Landscaped Open Space and Bushland Setting	50% (4617m ²)	30.3% (2801m ²)	no change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B2 Number of Storeys	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D14 Site Facilities	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E10 Landslip Risk	Yes	Yes

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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 the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval Modification Application No. Mod2014/0210 for Modification of Development Consent DA2014/0102 granted for Alterations and additions to an aged care

facility and construction of underground water tanks on land at Lot 11 DP 775997,156 - 164 Ocean Street, NARRABEEN, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Specification of Electrical Services for Proposed Fire Services Upgrade to Taylor Village	21/08/2014	Niven Donnelly & Partners

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

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

Kevin Short, Planner


The application is determined under the delegated authority of:

Tony Collier, Development Assessment Manager

















ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2014/309594	Notification map	09/10/2014

ATTACHMENT C

Reference Number	Document	Date
 MOD2014/0210	156-164 Ocean Street NARRABEEN NSW 2101 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	24/09/2014
 2014/293790	DA Acknowledgement Letter - Malcolm Mcleod	24/09/2014
 2014/295293	modification application form	25/09/2014
 2014/295297	applicant details	25/09/2014
 2014/295302	cost summary report	25/09/2014
 2014/295307	report specification	25/09/2014
 2014/295311	plans - external	25/09/2014
 2014/295323	plans - internal	25/09/2014
 2014/295336	plans - master set	25/09/2014
 2014/303563	File Cover	02/10/2014
 2014/304963	Building Assessment Referral Response	03/10/2014
 2014/309590	Notification letter 140	09/10/2014
 2014/309594	Notification map	09/10/2014
 2014/309599	notification letter & plans posted	09/10/2014
 2014/335436	Obsolete	30/10/2014
 2014/335865	Obsolete	31/10/2014
 2014/335905	Notice of Determination	31/10/2014