

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2017/0226
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<b>Responsible Officer:</b>	Renee Ezzy
<b>Land to be developed (Address):</b>	Lot 2 DP 555153, 105 Ocean Street NARRABEEN NSW 2101
<b>Proposed Development:</b>	Modification of Development Consent DA1998/0426 granted for "Attached Dual Occupancy Demolish Old Home"
<b>Zoning:</b>	LEP - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	No
<b>Existing Use Rights:</b>	Yes
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Adrienne Louise Sycamore Alexander Kyrikos
<b>Applicant:</b>	Alexander Kyrikos

<b>Application lodged:</b>	01/09/2017
<b>Integrated Development:</b>	No
<b>Concurrence Required:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	08/09/2017 to 26/09/2017
<b>Advertised:</b>	Not Advertised, in accordance with A.7 of WDCP
<b>Submissions Received:</b>	1
<b>Recommendation:</b>	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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant

Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B3 Side Boundary Envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 555153 , 105 Ocean Street NARRABEEN NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site is No. 105 Ocean Street, Narrabeen and is located on the eastern side of Ocean Street accessed by a right-of-way shared with No. 107 Ocean Street.</p> <p>The subject site has a total area of 942.2m<sup>2</sup> and is generally rectangular in shape providing a northern boundary of 43.28 metres, an eastern boundary to Narrabeen Beach of 15.316 metres, a southern boundary of 51.206 metres, and a western boundary of 21.33 metres. The site is generally flat with a slight fall of approximately 1m across the site toward the beach.</p> <p>Adjoining the site to the north at No. 107 Ocean Street is a contemporary two storey dwelling. Further to the north at No. 109 Ocean Street there is a multi unit residential flat building containing 24 units. To the south there are three dwellings which adjoin the property which are accessed from Waterloo Street. No. 3 Waterloo Street which is oriented north-south facing the middle of the subject site, No. 5 Waterloo Street and No.7 Waterloo Street adjoining the western end of the site.</p>

Map:

On 16 September 1998, Development Application No. 1998/0426 for demolition of the existing dwelling and construction of an attached dual occupancy was lodged with Council. This application was approved under delegation on 27 May 1999.

On 10 December 2003, Construction Certificate No. 1998/426CC1 was issued by Council. A Form 7 Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority was lodged with Council on 10 May 2004.

On 10 August 2005, modification No. 1 of Development Application No. 1998/0426 (MOD1998/0426/1) for modifications to window configurations, increase to balcony size, and increased ceiling and eave heights was lodged with Council. The application was approved by the Independent Hearing and Assessment Panel (IHAP) on 13 June 2006.

On 12 January 2017, MOD2016/0276 was approved by Council. This modification included changes to the floor layout, window changes and amendments to the garage location of House A and garage size of House 2.

On 1 September 2017, MOD2017/0226 was lodged with Council. This application is the subject of this assessment. Council's records do not reveal any further relevant history for the subject site.

The proposed modifications include the following:

- lowering the overall roof height and form;
- changing of the cladding of Level 1 to timber;
- removing windows in both the southern and northern side elevations of the building and providing fenestration oriented toward internal alcoves to increase privacy enjoyed between adjoining properties;
- minor reconfiguring of the alcoves in the building's northern and southern side elevations;
- reducing the depth of the garage associated with House A from 6.6m to 5.4m to provide a better and

clear entry to House A;

- reconfiguring the garage associated with House B to establish a carport and a family room to enhance the living space in House B and to provide a better and clear entry to House B;
- reducing the size of balconies to make them consistent with one another;
- minor internal reconfiguration of dwellings to increase residential amenity;
- the addition of a non-habitable basement storage area, with a floor to ceiling height of 2.3m and an area of 25m<sup>2</sup>, under each of the dwellings to provide storage space: and
- installation of a turntable to improve egress of vehicles from the site in a forward direction.

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 C.

### 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 DA1998/0426, MOD1998/0426/1, and MOD2016/0276, 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	<b>Yes</b> 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 DA1998/0426 being construction of a dual occupancy.

Section 96(1A) - Other Modifications	Comments
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p>	<p>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.</p>
<p>(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.</p>	<p>See discussion on "Public Exhibition" in this report.</p>

### 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&amp;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>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>



Section 79C 'Matters for Consideration'	Comments
	<p>Clauses 54 and 109 of the EP&amp;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>Clause 92 of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p>Clauses 93 and/or 94 of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p>Clause 98 of the EP&amp;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> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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 (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.

Section 79C 'Matters for Consideration'	Comments

## EXISTING USE RIGHTS

It is noted that the original consent issued on 27 May 1999 for DA1998/0426 was approved under the provisions of Warringah Local Environmental Plan 1985 (WLEP 1985) and Council's Policy for Dual Occupancy Development under State Regional Environmental Policy No.12 (SREP No.198712). WLEP 1985 and Council's Policy for Dual Occupancy Development were initially superseded by Warringah Local Environment Plan 2000 and subsequently by Warringah Local Environmental Plan 2011.

Accordingly, the continued use and development of the site as an 'attached dual occupancy' development is permissible under the provisions of Division 10 of the Environmental Planning and Assessment Act, 1979 Existing Use Rights.

## 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr David Ernest Head	3 Waterloo Street NARRABEEN NSW 2101

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

- "I have no problem with the proposed amended development modification (Mod 2017/0226) as long as it is no further forward (to the East) that the original proposed development."***

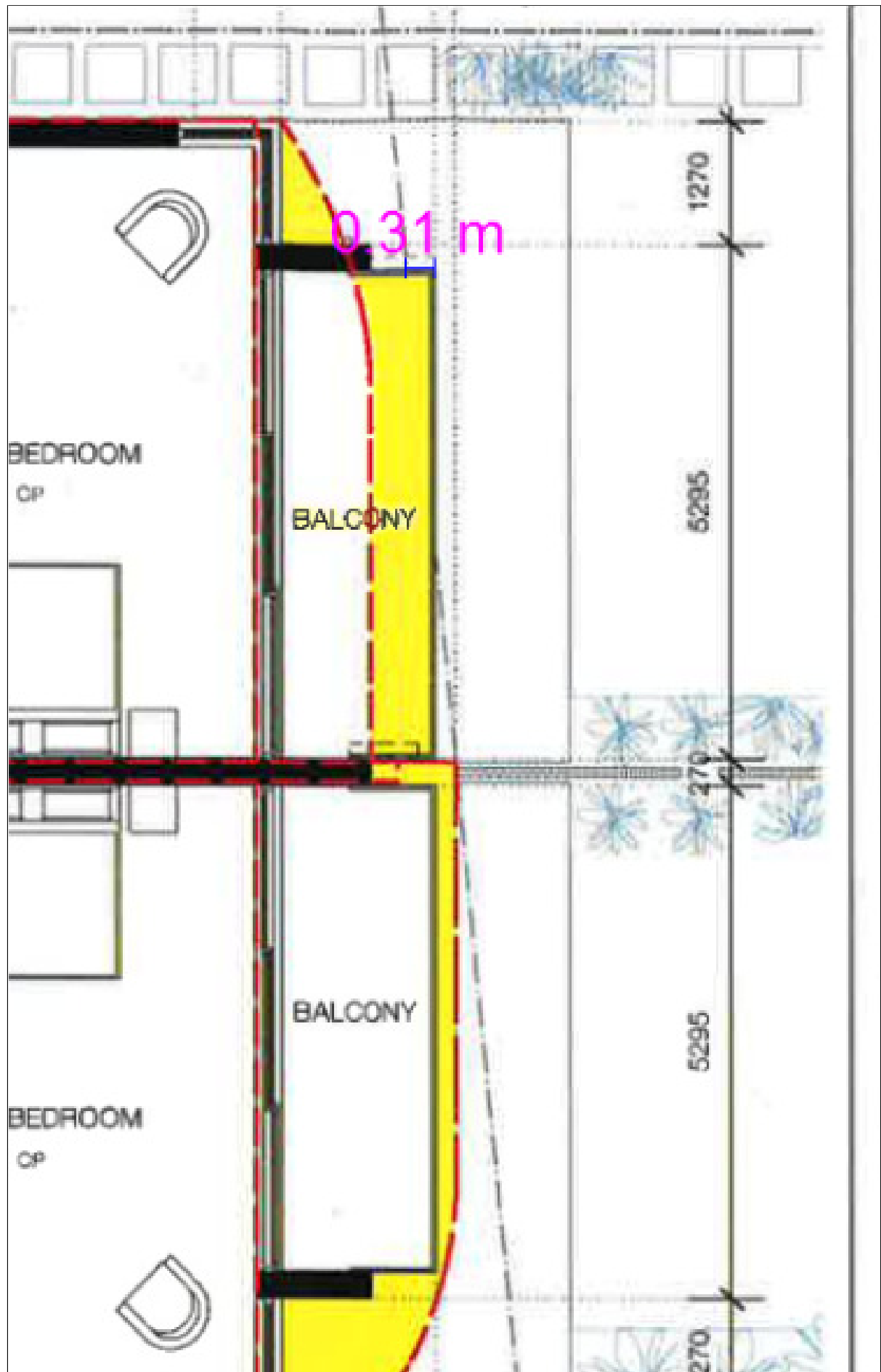
Comment:

The proposed modifications include changes to the eastern profile of the building.

Specifically, the curved first floor balconies are amended to remove the curve at the southern end of dwelling 1 and the northern end of dwelling 2.

For Dwelling 1 the deck is squared off and reduced in depth from 1.8m to 1.6m which essentially increases the eastern setback to this part of the development.

For Dwelling 2 the balcony is squared off and extended to match Dwelling 1 at 1.6m in depth, this extends the approved balcony by 0.31m further east. Notwithstanding that this northern dwelling extends marginally further to the east, the extent of the balcony is in alignment with the balcony of Dwelling 1. Accordingly, there is no additional adverse impact resulting from this modification of the balcony shape and setback (see attached detail).





## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Development Engineers	No Development Engineering objection is raised to the proposed development with no conditions.
Environmental Investigations (Acid Sulphate)	No additional conditions are required AF 8.9.2017
Landscape Officer	No objections to the proposed modification.
Natural Environment (Biodiversity)	Councils Natural Environment and Climate Change (NECC) - Biodiversity section, raise no objections to the proposal.
Natural Environment (Coastal)	No objection to the proposed modification. Condition number 44 from the consolidated conditions of Modification No.1 approved 13 June 2006, of Development Consent 1998/0426 approved 27 May 1999 is to remain.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

## 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)

Nil

## Warringah Local Environment Plan 2011

Is the development permissible?	No
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
Minimum subdivision lot size:	1/600m <sup>2</sup>	1/393.23m <sup>2</sup>	No change	N/A	No - existing
Height of Buildings:	8.5m	7.6m	6.8m	Nil	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.5 Development within the coastal zone	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

#### Warringah Development Control Plan

##### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	6.6	6.38m	Yes
B3 Side Boundary Envelope	4m	North - 0.58m	1.53m	No
	4m	South - 1.08m	1.38m	No
B5 Side Boundary Setbacks	0.9m	North - 0.92m	North - 0.92m	Yes
	0.9m	South - 0.92m	South - 0.92m	Yes
B7 Front Boundary Setbacks	6.5m	>6.5m	>6.5m	Yes
B9 Rear Boundary Setbacks	6m	15.6m	15.1m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	38.28%	No change	No - existing

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E9 Coastline Hazard	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

### **B3 Side Boundary Envelope**

#### Description of non-compliance

The proposed changes to the roof line result in some minor increases in the building envelope non-compliance approved.

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The proposed modifications change the approved curved roof line to a flat roof design which results in new encroachments of the side boundary envelope. While the modifications increase the encroachment, the overall height and bulk of the development with the changed roof line is reduced. Accordingly the proposed amendments are considered acceptable in terms of height and bulk.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The spatial separation of the development from the surrounding properties is maintained with the modifications to the design. The proposal is acceptable in terms of maintaining adequate light, solar access and privacy.

- *To ensure that development responds to the topography of the site.*

Comment:

The site is generally flat. The development will maintain its two storey appearance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **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. Mod2017/0226 for Modification of Development Consent DA1998/0426 granted for "Attached Dual Occupancy Demolish Old Home" on land at Lot 2 DP 555153,105 Ocean Street, NARRABEEN, subject to the conditions printed below:

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

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

#### a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A-00 Rev A Notification Plan	15/08/2017	Momentum Pro
A-01 Rev B Proposed Basement Plan	15/08/2017	Momentum Pro
A-02 Rev B Proposed Ground Floor Plan	15/08/2017	Momentum Pro
A-03 Rev B Proposed First Floor Plan	15/08/2017	Momentum Pro
A-04 Rev B Proposed East and West Elevations	15/08/2017	Momentum Pro
A-05 Rev B Proposed North and South Elevations	15/08/2017	Momentum Pro
A-06 Rev B Proposed Sections	15/08/2017	Momentum Pro

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Basement & House Structural Stability (Project No. A16032)	23 August 2017	BG&E Pty Limited

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

c) The development is to be undertaken generally in accordance with the following:

**B. Add Condition 31A. Garage and Carport Dimensions to read as follows:**

The internal clearance dimensions for the garage for House A and the carport for House B are to comply with the relevant Australian Standards. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the appropriate standards.  
(DACENPC1)

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**

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**Renee Ezzy, Principal Planner**

The application is determined under the delegated authority of:

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**Lashta Haidari, Acting Development Assessment Manager**



**ATTACHMENT A**

No notification plan recorded.

**ATTACHMENT B**

	Notification Document	Title	Date
	2017/335104	Notification Map	07/09/2017

## ATTACHMENT C

Reference Number	Document	Date
 2017/331014	Report - Statement of Environmental Effects	01/09/2017
 2017/331015	Report - Engineering	01/09/2017
 MOD2017/0226	105 Ocean Street NARRABEEN NSW 2101 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	01/09/2017
 2017/323013	DA Acknowledgement Letter - Alexander Kyrikos	01/09/2017
 2017/331011	Modification Application Form	06/09/2017
 2017/331012	Applicant Details	06/09/2017
 2017/331016	Plans - Shadow Digrams	06/09/2017
 2017/331018	Plans - External	06/09/2017
 2017/331019	Plans - Internal	06/09/2017
 2017/331020	Plans - Master Set	06/09/2017
 2017/334595	Environmental Investigations (Acid Sulphate) - Assessment Referral - Mod2017/0226 - 105 Ocean Street NARRABEEN NSW 2101 - MS	07/09/2017
 2017/335104	Notification Map	07/09/2017
 2017/334746	Development Engineering Referral Response	08/09/2017
 2017/335047	Notification Letter - 56	08/09/2017
 2017/335060	DA Acknowledgement Letter (not integrated) - Alexander Kyrikos	08/09/2017
 2017/335917	Environmental Investigations Referral Response - acid sulfate soils	08/09/2017
 2017/344599	Online Submission - Head	14/09/2017
 2017/345924	Submission Acknowledgement Letter - David Ernest Head - SA2017/344599	14/09/2017
 2017/366300	Natural Environment Referral Response - Biodiversity	27/09/2017
 2017/371799	Natural Environment Referral Response - Coastal	29/09/2017
 2017/371800	Natural Environment Referral Response - Coastal	29/09/2017
 2017/416380	Landscape Referral Response	25/10/2017
 2017/441458	Assessment Report	08/11/2017