

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0083
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 18 DP 249823 , 34 Robert Avenue NORTH MANLY NSW 2100
Proposed Development:	Modification of Development Consent DA2014/0837 granted for Alterations and additions to a dwelling house and construction of a swimming pool and driveway
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Selena Jane Mohr Gerry Michael Daly
Applicant:	Selena Jane Mohr

Application lodged:	29/04/2015
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	20/05/2015 to 04/06/2015
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 Development Control Plan - B7 Front Boundary Setbacks

SITE DESCRIPTION

Property Description:	Lot 18 DP 249823 , 34 Robert Avenue NORTH MANLY NSW 2100
Detailed Site Description:	<p>The property is an irregular shaped Lot 607 sqm on the southern side of Robert Avenue (cul-de-sac) in the residential neighbourhood of North Manly. The property is developed with a existing single storey dwelling with carparking on the western side. The site adjoins a local park to the western boundary and the house is situated in a street that is characterized by large trees and period homes in low density development pattern. Houses in the street are also a mix of single and two storey most having hipped style roofs.</p> <p>The site currently has parking for two cars in a tandem arrangement with one located fully within the front setback. The site has no significant rock outcrops and is not bushfire prone and is not identified as containing heritage items or threatened species.</p>

Map:



SITE HISTORY

Building Application No.1946/91 for a dwelling house was approved by Council on 17 September 1991.

Development Application No.2010/1459 for alterations and additions including a first storey was approved by Council on 18 October 2010. The proposed works have partly proceeded with ground floor works, however no Notice of Commencement or Construction Certificate has been lodged. This issue has been addressed under separate cover letter and referred to Compliance Services for investigation if a Building Certificate is required.

Development Application No.DA2014/0837 for alterations and additions, including a new carport and pool was approved by Council on 22 October 2014

PROPOSED DEVELOPMENT IN DETAIL

The modification involves the following works that are minor changes to the original plans:

- Rendered surface for brick veneer walls to rear wall of carport (to match existing house);
- Change to a structural steel frame & tiled roof for the carport with storage cupboard abutting the house wall;
- New "sun tuff" clad roof over timber pergola adjacent to laundry; and
- New rainwater tank with amended Basix report.

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 DA2014/0837, 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 DA2014/0837.
(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 92</u> of the EP&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><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent</p> <p><u>Clause 98</u> of the EP&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/This clause is not relevant to this application.</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	(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.

Section 79C 'Matters for Consideration'	Comments
impacts in the locality	(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the 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.
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
Parks, reserves, beaches, foreshore	No objection to the modification and no change to conditions recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. A response has been received within the 21 day statutory period by letter dated 26 May 2015. Ausgrid raised no objections subject to <i>"the existing overhead electricity service to the premise is to be re-routed as required to ensure that adequate clearance is achieved from the proposed car port. Refer to Section 3.5 of the Service and Installation Rules of New South Wales for the compliance requirements."</i> This is addressed by modified conditions.

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 55 - Remediation of Land

This SEPP's has been addressed under the original assessment. The works have no impact and no change to the conclusions made in respect of considerations pursuant to SEPP 55.

SEPP (Building Sustainability Index: BASIX) 2004

A revised BASIX certificate has been submitted with the application (see Certificate No.A194619_02 dated 23/5/2015).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Achievable
Thermal Comfort	Pass	Pass
Energy	40	Achievable

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

The proposal was referred to Ausgrid pursuant to SEPP (Infrastructure) 2007. A response has been received within the 21 day statutory period by letter dated 26 May 2015. Ausgrid raised no objections subject to *"the existing overhead electricity service to the premise is to be re-routed as required to ensure that adequate clearance is achieved from the proposed car port. Refer to Section 3.5 of the Service and Installation Rules of New South Wales for the compliance requirements."* This is addressed by modified conditions.

The works have no unreasonable impacts and no change to the considerations of other service

providers pursuant to SEPP (Infrastructure) 2007 are made.

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	4.3m (House roof ridge)	No change	N/A	Yes
		3.8m (Carport roof ridge)	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	2.4m	No change	Yes
B3 Side Boundary Envelope	West - 45 degrees at 4m	Within envelope	No change	Yes
	East - 45 degrees at 4m	Within envelope	No change	Yes
B5 Side Boundary Setbacks	East - 0.9m	1.5m to 2.1m (House wall)	No change	Yes
		1.0m (Pool)	No change	Yes
	West - 0.9m	1.8m to 4.7m (House wall)	No change	Yes
B7 Front Boundary Setbacks	6.5m	8.5m to 10.6m (House wall)	7.0m to 8.2m (House walls)	Yes No

		2.5m to 6.5m (Carport posts)	1.4 to 6.2m (Carport posts)	(Merit variation up to 78%)
B9 Rear Boundary Setbacks	6.0m	1.2m (Pool coping) 9.2m (House wall) 6.0m (Rear deck)	No change	Yes (by exception) Yes Yes
D1 Landscaped Open Space and Bushland Setting	40% (242 sqm)	43% (267 sqm)	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
R2 Side Boundary Envelope Exceptions	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
Front Boundary Exceptions - R2	No	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
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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The proposed carport will remain partly within the front setback. The setback now varies between 1.4m to 6.2m (from originally 2.5m to 6.5m) across approximately 38% (area) of the carport structure that is forward of the 6.5m front boundary setback line.

Merit consideration:

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

- *To create a sense openness.*

Comment:

The carport was originally conditioned to be open sided (carport appearance) at the sides and front to maintain a sense of openness. No screen or battens or gate is proposed to enclose the interior of the carport. The modification is proposed to address the occupants reasonable needs for adequate site facilities for domestic storage, that would normally be held in a garage. The carport is fully open to the street and does not unreasonably affect the sense of openness on the streetscape.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The carport structure, is approved as an open sided carport, and does not dominate the frontage to the site and landscaped setting for the existing dwelling is maintained with an open outlook toward the street.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The carport is located on the eastern (opposite) side of the site to the local park that is along the western boundary. The existing hard-stand carparking will be removed (currently also within the front setback and adjacent the local park) and replaced with lawn and landscape plantings. Overall the visual quality of the streetscape and surrounding public spaces is maintained, with the garage fully open on three (3) sides as a carport.

- *To achieve reasonable view sharing.*

Comment:

The location of the new carparking area will have no impact on any coastal or district views.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions 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. Mod2015/0083 for Modification of Development Consent DA2014/0837 granted for Alterations and additions to a dwelling house and construction of a swimming pool and driveway on land at Lot 18 DP 249823,34 Robert Avenue, NORTH MANLY, subject to the conditions printed below:

A. Add Condition No.1A - 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
DAMod1003 Site Plan	27/4/2015	Rapid Plans
DAMod1005 Demolition Plan	27/4/2015	Rapid Plans
DAMod2001 Ground Floor	27/4/2015	Rapid Plans
DAMod2002 Roof	27/4/2015	Rapid Plans
DAMod3001 Section 1	27/4/2015	Rapid Plans
DAMod3002 Section 2	27/4/2015	Rapid Plans
DAMod3003 Section Drive	27/4/2015	Rapid Plans
DAMod3004 Sections Pool	27/4/2015	Rapid Plans
DAMod4001 Elevation 1	27/4/2015	Rapid Plans
DAMod4002 Elevation 2	27/4/2015	Rapid Plans
DAMod5005 Colours & Finishes Sample Board	27/4/2015	Rapid Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Basix Report A194619_02	23/4/ 2015	Rapid Plans

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:

Erosion Control / Waste Management Plan		
Drawing No.	Dated	Prepared By
DAMod1007 Sediment & Erosion Control Plan	27/4/2015	Rapid Plans
DAMod1008 Waste Management Plan	27/4/2015	Rapid Plans

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

B. Modify Condition 2 to read as follows:

2. Compliance with Other Department, Authority or Service Requirements

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

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

Service Authority	Dated	Prepared By
(Ausgrid) - Referral Response - Ausgrid - 34 Robert Avenue North Manly	26 May 2015	Ausgrid

(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 other Department, Authority or Body's. (DACPLB02)

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

Alex Keller, Senior Development Planner

The application is determined under the delegated authority of:

Phil Lane, Development Assessment Manager




















ATTACHMENT A

Notification Plan	Title	Date
 2015/128920	plan notification	07/05/2015

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2015/128929	report basix certificate from CD	23/04/2015
 2015/128934	plans master set from CD	27/04/2015
 MOD2015/0083	34 Robert Avenue NORTH MANLY NSW 2100 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	29/04/2015
 2015/120775	DA Acknowledgement Letter - Selena Jane Mohr	29/04/2015
 2015/128907	Application to modify a consent	07/05/2015
 2015/128908	applicant details	07/05/2015
 2015/128912	OSD Checklist	07/05/2015
 2015/128918	plan survey	07/05/2015
 2015/128920	plan notification	07/05/2015
 2015/128921	statement of environmental effects	07/05/2015
 2015/128924	plans external	07/05/2015
 2015/128928	certification of shadow diagrams with plans	07/05/2015
 2015/131796	File Cover	11/05/2015
 2015/131804	Referral to AUSGRID - SEPP - Infrastructure 2007	11/05/2015
 2015/142977	Notification Letters Mod - 20	20/05/2015
 2015/142981	Notification Map - Mod	20/05/2015
 2015/146526	Parks, Reserves and Foreshores Referral Response	25/05/2015
 2015/148722	Referral Response - Ausgrid - 34 Robert Avenue North Manly	26/05/2015
 2015/160970	Assessment Report	05/06/2015