

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2013/0232
----------------------------	--------------

Responsible Officer:	Keith Wright
Land to be developed (Address):	Lot 1 DP 235748 , 136 Anzac Avenue COLLAROY PLATEAU NSW 2097
Proposed Development:	Modification of Development Consent DA2010/1136 granted for Subdivision of land and Construction of 3 dwellings
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:	George Tsivis
Applicant:	Boston Blyth Fleming Pty Ltd

Application lodged:	27/11/2013
Application Type:	Local
State Reporting Category:	Other
Notified:	20/12/2013 to 20/01/2014
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 Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 1 DP 235748 , 136 Anzac Avenue COLLAROY PLATEAU NSW 2097
Detailed Site Description:	The site is known as Lot 1, DP235748, 136 Anzac Avenue, Collaroy Plateau. It is predominantly level with a slight cross fall of approximately 7.9% (4.8m). Currently, the subject site is vacant with no dwellings or structures. The site is located within the existing established streetscape, and adjoined by detached style residential dwellings, consisting of single and double storey construction within landscaped settings. Council records do not reveal any site burdens or constraints over the subject site.

Map:



SITE HISTORY

DA2010/1136 was approved on 30/10/10 for subdivision of land and construction of three dwellings.

PROPOSED DEVELOPMENT IN DETAIL

It is proposed to reduce the height of fill required at the rear of lots 2 and 3 for the new dwellings approved under DA2010/1136 and thereby reduce the heights of the two buildings by 500mm and 1 metre

respectively. The application also proposes changes to the west facing windows for the dwelling on lot 3, delete Conditions 8 and 9 in relation to side setback amendments required prior to the issue of a Construction Certificate and revision of Condition 11 relating to drainage. The amendments to Conditions 8 and 9 have been addressed in this application.

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 DA 2010/1136 in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - 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 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 DA 2010/1136.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the	Development Application DA 2010/1136 did not require concurrence from the relevant Minister, public authority or approval body.

Section 96(2) - Other Modifications	Comments
modification of that consent, and	
(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.	No submissions were received in relation to this application.

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)(iia) – 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)	<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 already via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent

Section 79C 'Matters for Consideration'	Comments
	<p>authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed already via a condition of consent.</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 already via a condition of 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	(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. (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
Development Engineers	<p>No objection to approval, subject to conditions as recommended below:</p> <ol style="list-style-type: none"> 1. Deletion of Condition 11 "On-site Stormwater Detention Compliance

Internal Referral Body	Comments
	<p>Certification" of the Development Consent.</p> <p>2.Insertion of the following condition:</p> <p style="text-align: center;">On-site Stormwater Detention Compliance Certification</p> <p>Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Glenn Haig & Associates, drawing numbers 101726 H-000D, 101726 H-001C, 101726 H-101D, 101726 H-102D, 101726 H-103D, 101726 H-401D, dated 19 September 2013. Drainage Plans are to be amended to comply with the following requirements:</p> <ul style="list-style-type: none"> a) Access openings into the OSD tanks are to be minimum 600mm x 900mm internal dimensions b) All inlet pipes to the OSD tanks are to be diverted around the OSD tanks and to discharge directly into the High Early Discharge chambers <p>Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.</p>
Landscape Officer	No objections to the proposed modifications.
Natural Environment (Biodiversity)	There are no comments and/or conditions for the proposed development.
Traffic Engineer	No objections on the proposal with regard to traffic.

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)

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 continued residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

BASIX certificates have been submitted with the application (see Certificates Nos. 320162S_02 for lot 2 and 321726S_02 for lot 3).

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:

There are no infrastructure issues.

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	7.5m - lot 1 8.1m - lot 2 6.2m - lot 3	7.5m - lot 1 7.6m - lot 2 7.1m - lot 3	Nil	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

With exception to increased setbacks and increased landscaped open space required by Conditions 8 and 9 of Development Consent DA2010/1136, boundary setbacks generally are unchanged. The only variations to Built Form Controls are reductions in the heights of dwellings, walls and ceilings on lots 2 and 3 by 500mm and 1 metre respectively.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - R2	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1 Subdivision	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
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
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
E1 Private Property Tree Management	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

Detailed Assessment

D1 Landscaped Open Space and Bushland Setting

Paved areas under the clothes drying areas of Lots 1 and 2 have been deleted so as to increase Landscaped Open Space and thereby comply with Condition 9 of Development Consent DA2010/1136. Condition 9 therefore can be deleted as requested in the modification application.

D9 Building Bulk

Condition 8 of Development Consent required a minimum 1.5m setback on the eastern elevation of the dwelling on lot 1 and the western elevation of lot 2. The modification plans have addressed this condition and therefore Condition 8 can be deleted as requested.

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. Mod2013/0232 for Modification of Development Consent DA2010/1136 granted for Subdivision of land and Construction of 3 dwellings on land at Lot 1 DP 235748, 136 Anzac Avenue, COLLAROY PLATEAU, subject to the conditions printed below:

A. Add Condition No.1B - 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
Project No. 13-0144, Drawing WD-A-103, Rev F	30/05/13	George Tsisvis for Quattro Architecture
Project No. 13-0144, Drawing WD-A-105, Rev J	23/05/13	George Tsisvis for Quattro Architecture
Project No. 13-0144, Drawings WD-L-001 and WD-L-002, Rev C	27/08/13	George Tsisvis for Quattro Architecture
Project No. 13-0144, Drawings WD-A-050 and WD-A-051, Rev F	23/05/13	George Tsisvis for Quattro Architecture
Project No. 13-0144, Drawing SK-A-105, Rev P4	05/08/13	George Tsisvis for Quattro Architecture
BASIX certificates Nos. 320162S_02 for lot 2 and 321726S_02 for lot 3).	21/10/13	Quattro Architecture Pty Limited

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

(b) Deletion of Condition 8 "Deletion of Paved Areas (Rear of Dwellings on Lots 1 and 2)".

(c) Deletion of Condition 9 "Increased Side Setbacks (Dwellings on Lots 1 and 2)".

(d) Deletion of Condition 11 "On-site Stormwater Detention Compliance Certification" and replace with the following:

11. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Glenn Haig & Associates, drawing numbers 101726 H-000D, 101726 H-001C, 101726 H-101D, 101726 H-102D, 101726 H-103D, 101726 H-401D, dated 19 September 2013. Drainage Plans are to be amended to comply with the following requirements:

- a) Access openings into the OSD tanks are to be minimum 600mm x 900mm internal dimensions
- b) All inlet pipes to the OSD tanks are to be diverted around the OSD tanks and to discharge directly into the High Early Discharge chambers

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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

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

Keith Wright, Development Assessment Officer

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager























ATTACHMENT A

Notification Plan	Title	Date
 2013/347617	plans notification	03/12/2013

ATTACHMENT B

Notification Document	Title	Date
 2013/365444	Notification Map	20/12/2013

ATTACHMENT C

Reference Number	Document	Date
 2013/347613	plan survey from cd	19/07/2010
 2013/347647	hyd booklet from cd	23/09/2013
 2013/347649	calcs book from cd	23/09/2013
 2013/347651	report BASIX_lot 2 from cd	25/11/2013
 2013/347653	report BASIX_lot 3 from cd	25/11/2013
 2013/341054	DA Acknowledgement Letter - Boston Blyth Fleming Pty Ltd	27/11/2013
 2013/347601	application to modify a consent	03/12/2013
 2013/347607	applicant details	03/12/2013
 2013/347617	plans notification	03/12/2013
 2013/347632	statement of environmental effects	03/12/2013
 2013/347635	plans external	03/12/2013
 2013/347639	plans internal	03/12/2013
 2013/347656	plans master set	03/12/2013
 2013/357548	Landscape Referral Response	12/12/2013
 2013/359766	File Cover	16/12/2013
 2013/359816	Referral to Development Engineers	16/12/2013
 2013/359847	Referral to AUSGRID - SEPP - Infrastructure 2007	16/12/2013
 2013/361760	Natural Environment Referral Response - Biodiversity	17/12/2013
 2013/364996	Development Engineering Referral Response	20/12/2013
 2013/365436	Notification Letters - 11	20/12/2013
 2013/365444	Notification Map	20/12/2013
 2014/003376	Traffic Engineer Referral Response	07/01/2014